

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 430

By: Senators Hopkins, Chaffin, and Moore

"AN ACT TO REQUIRE PRIOR NOTICE TO AFFECTED EMPLOYEES AND TO THE DEPARTMENT OF LABOR, THE EMPLOYMENT SECURITY DIVISION, THE ARKANSAS INDUSTRIAL DEVELOPMENT COMMISSION, THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY, THE ARKANSAS SCIENCE AND TECHNOLOGY AUTHORITY, THE VOCATIONAL AND TECHNICAL EDUCATION DEPARTMENT, SMALL BUSINESS DEVELOPMENT CENTERS, COLLEGES AND UNIVERSITIES, VO-TECH SCHOOLS AND COMMUNITY COLLEGES, LOCAL PLANNING AND DEVELOPMENT DISTRICTS AND ANY OTHER PRIVATE AND PUBLIC AGENCIES AS DEFINED BY THE DEPARTMENT OF LABOR WHICH MAY BE NEEDED WHEN PLANT RELOCATIONS AND TERMINATIONS OCCUR."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DEFINITIONS. As used in this Act, the following words and phrases have the meanings defined in this Section:

(a) "Covered establishment" means any industrial or commercial facility but does not include a construction site or other work place that was never intended as anything other than a temporary workplace;

(b) "Employer" means any person who directly or indirectly owns and operates a covered establishment;

(c) "Relocation" means the removal of all or substantially all of industrial or commercial operations in a covered establishment to a new location, within or without the State of Arkansas, 50 or more miles distant from its original location;

(d) "Termination" means the substantial cessation of industrial or commercial operations in a covered establishment;

(e) "Physical calamity" means any calamity such as fire, flood or other natural disaster;

(f) "Director" means the Director of the Department of Labor.

SECTION 2. NOTICE TO EMPLOYEES, THE DIRECTOR OF THE DEPARTMENT OF LABOR AND OTHER ENTITIES. (a) Any employer who intends to relocate or terminate a covered establishment which employs or has employed at any time in the preceding 12-month period fifty (50) or more persons shall give notice of such intention, in writing, to the Director, the employees of the covered establishment, and any employee organization which represents them at the earliest practicable date and in any event, at least three (3) months before such relocation or termination is to be effected.

(b) Any employer who intends to relocate or terminate a covered establishment which employs or has employed at any time in the preceding 12-month period one hundred (100) or more persons shall give notice of such intention, in writing, to the Director, the employees of the covered establishment, and any employee organization which represents them at the earliest practicable date and in any event, at least six (6) months before such relocation or termination is to be effected.

(c) The notice required in this Section shall specify the number of employees whose employment is to be terminated as a result of such relocation or termination, the anticipated date of such relocation or termination and the reason for the relocation or termination.

(d) Provisions of collective bargaining agreements which require advance notification by employers to affected employees prior to an intended relocation or termination in which the advance notice is longer than required by this Act shall supersede the requirement of this Section.

(e) The Director of the Department of Labor shall cause the notice requirements to be distributed to: the Employment Security Division, the Arkansas Industrial Development Commission, the Arkansas Development Finance Authority, the Arkansas Science and Technology Authority, the Vocational and Technical Education Department, small business development centers, colleges and universities, vo-tech schools and community colleges, local planning and development districts and any other private and public agencies as defined by the Department of Labor which may be needed when plant relocations and terminations occur.

(f) Notices shall not be required of employers in the event relocation or termination is necessitated by a physical calamity.

SECTION 3. ENFORCEMENT OF NOTICE REQUIREMENTS. (a) The Director of the Department of Labor shall cause the notice requirements provided in Section 2 to be enforced.

(b) The Director of the Department of Labor is granted the authority to assess a civil penalty of not more than One Thousand Dollars (\$1,000.00) for each fifty (50) employees terminated as a result of a relocation or termination upon an employer who fails to provide notice as required by this Act. The Director may bring an action in any state or federal court of competent jurisdiction to recover a civil penalty assessed under this Section that is not paid within fifteen (15) days of such assessment.

SECTION 4. The General Assembly finds that the relocation or termination of any industrial or commercial operation employing fifty (50) or more persons has a substantial adverse economic and social impact upon the community in which such operation has been located and that the people of the community and the state government of Arkansas have a substantial interest in economic changes of such magnitude. It is essential that in order for a comprehensive development plan to be initiated early for such economically distressed communities prior notice of such economic disruption is essential to ease the adverse impact on the unemployed and the community. The General Assembly declares that it is the public policy of this State to mitigate the adverse impact of such major economic changes by requiring the employer whose operations are relocated or terminated to give advance notice of such action. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public welfare shall be in full force and effect from and after its passage and approval.

