DATE: OCTOBER 22, 2015
TO: MEMBERS OF THE RULES COMMITTEE
FROM: COUNCILMEMBER ABEL GUILLÉN
RE: RESOLUTION OPPOSING THE TRANS PACIFIC PARNTERSHIP (TPP)
CC: COUNCILMEMBERS CAMPBELL WASHINGTON, KALB

Background

On June 29, 2015, **H.R.2146 - Defending Public Safety Employees' Retirement Act,** includeing the Trade Promotion Authority, was signed into law by President Barack Obama and became Public Law 114-26. Public Law 114-26 authorizes the United States to advance the negotiation process of the Trans Pacific Partnership (TPP) agreement between 11 other countries that include Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam.

As of October 5, 2015, all 12 countries have completed negotiations and approved the Trans-Pacific Partnership trade agreement. The TPP will now be scheduled for vote by Congress to ratify the agreement sometime in 2016. Once the implementing bill for the TPP is introduced in the U.S. House of Representative and the U.S. Senate, Congress has a maximum of 90 days to approve or disapprove the trade deal. The final language of the TPP has not yet been made available to the public.

The Alameda Labor Council, on behalf of the AFL-CIO, has requested that the City of Oakland and additional cities throughout the United States, introduce a resolution in opposition to this trade plan. Enclosed, you will find a fact sheet from the AFL-CIO expressing their concerns over the Trans-Pacific Partnership.

ATTACHMENTS

Summary: H.R.2146 — 114th Congress (2015-2016)All Bill Information (Except Text)

There are 5 summaries for H.R.2146.

Public Law (06/29/2015)

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Bill summaries are authored by CRS.

Shown Here:
Public Law No: 114-26 (06/29/2015)

Defending Public Safety Employees' Retirement Act

(Sec. 2) This bill amends the Internal Revenue Code, with respect to the exemption from the 10% penalty tax on early distributions from a government retirement plan for qualified public safety employees who have reached age 50, to expand the exemption to include specified federal law enforcement officers, customs and border protection officers, federal firefighters, and air traffic controllers who similarly have reached age 50.

The bill also eliminates the restriction that only distributions from governmental plans that are defined benefit plans qualify for the exemption, thus allowing an exemption of distributions from defined contribution plans and other types of governmental plans. Additionally, early distributions are not treated as a modification of substantially equal payments for purposes of determining an increase in the penalty tax.

The amendments made by this bill apply to distributions made after December 31, 2015.

(Sec. 3) The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained under the Statutory Pay-As-You-Go Act of 2010.

TITLE I--TRADE PROMOTION AUTHORITY

Bipartisan Congressional Trade Priorities and Accountability Act of 2015

(Sec. 102) Declares the overall trade negotiating objectives of the United States with respect to any agreement with a foreign country to reduce or eliminate existing tariffs or nontariff barriers of that country or the United States that are unduly burdening and restricting U.S. trade. Includes among such objectives:

- more open, equitable, and reciprocal market access;
- the reduction or elimination of trade barriers and distortions that are directly related to trade and investment and that decrease market opportunities for U.S. exports or otherwise distort U.S. trade;
- stronger international trade and investment disciplines and procedures, including dispute settlement;
- enhanced U.S. competitiveness;
- protection of the environment;
- respect for worker and children rights consistent with International Labor Organization core labor standards;
- equal access of small businesses to international markets; and
- religious freedom.

Declares the principal trade negotiating objectives of the United States with respect to:

- goods and services;
- agriculture;
- foreign investment;
- intellectual property;
- digital goods and services, as well as cross-border data flows;
- regulatory practices;
- state-owned and state-controlled enterprises;
- localization barriers to trade;
- labor and the environment;
- currency and foreign currency manipulation;
- the World Trade Organization (WTO) and multilateral trade agreements;
- trade institution transparency;
- anti-corruption;
- dispute settlement and enforcement;
- trade remedy laws;
- border taxes;
- textile negotiations;
- commercial partnerships, especially with Israel; and
- good governance, transparency, operation of legal regimes, and the rule of law of U.S. trading partners.

Directs the President, in order to maintain U.S. competitiveness in the global economy, to engage in specified capacity building activities with respect to foreign countries that seek to enter into trade agreements with the United States.

(Sec. 103) Authorizes the President to enter into trade agreements with foreign countries for the reduction or elimination of tariff or nontariff barriers before July 1, 2018, or before July 1, 2021, if trade authorities procedures are extended to implementing bills (congressional approval) with respect to such agreements.

Authorizes the President to proclaim necessary or appropriate modifications or continuation of any existing duty, continuation of existing duty-free or excise treatment, or additional duties to carry out any such agreement.

(Sec. 104) Subjects trade agreements to congressional oversight and approval, consultations, and access to information requirements.

Requires the convening each Congress of the House and the Senate Advisory Groups on Negotiations to consult with and advise the United States Trade Representative (USTR) regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

Amends the Trade Act of 1974 to establish within the Office of the USTR the position of Chief Transparency Officer to consult with Congress on transparency policy, coordinate transparency in trade negotiations, engage and assist the public, and advise the USTR on transparency policy.

(Sec. 105) Specifies presidential notifications, consultations, reports, and other actions and their deadlines that must take place for any trade agreement to enter into force.

Specifies requirements for negotiations regarding agriculture, the fishing industry, and textiles.

(Sec. 106) Prescribes procedures for resolutions of disapproval in the House and the Senate before the President enters into any trade agreement.

Declares that trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement:

- if both chambers of Congress agree by a certain deadline to a procedural disapproval resolution for lack of notice or consultations, and
- with a country which does not fully comply and is not making significant efforts to comply with minimum standards for the elimination of human trafficking ("tier 3" country).

(Sec. 107) Prescribes requirements for the treatment of trade agreements entered into under the auspices of the WTO or with the Trans-Pacific Partnership countries or the European Union which result from negotiations commenced before enactment of this Act.

(Sec. 108) Declares that any provision of a trade agreement that is inconsistent with any U.S. laws shall be null and void.

(Sec. 109) Expresses the sense of Congress that the USTR should facilitate participation of small businesses in the trade negotiation process.

Currency: Addressing currency manipulation is probably the single most effective the U.S. can do to create jobs. The fact that enforceable currency rules continue to be absent from the TPP is disturbing: it leaves working people behind and instead benefits companies that off-shore jobs, often producing in sweatshops under abusive conditions. Misaligned currency is an important contributing factor to the U.S. trade deficit with China and other Asian nations. The Economic Policy Institute estimates the **U.S. could add as many as 5.8 million jobs by eliminating currency manipulation.**[1] If the TPP continues to omit currency rules, its tariff benefits could be undermined overnight when trading partners devalue their currency.

Investment: To ensure that the TPP achieves shared prosperity for all, it must eliminate investor-to-state dispute settlement (ISDS). ISDS is a private justice system that undermines democratic control over our economy. Foreign investors are currently using ISDS to attack public health policies in Australia and Uruguay, environmental policies in Canada and Peru, and minimum wage laws in Egypt. Global firms are using ISDS to seek compensation for violation of the vague right to "fair and equitable treatment," which private arbitration panels have interpreted expansively. Domestic companies must use domestic courts, but ISDS allows foreign investors to bypass them. ISDS creates a chilling effect on local, state, and national measures; it poses an unjustifiable risk to our democracy and economy; and it put profits over people.

Climate: Currently, U.S. trade policy could undermine both domestic efforts to address climate change and the U.S. government's bilateral agreement with China to cooperate on climate change and clean energy.[2] Without a border adjustment—to adjust the cost of highly polluting imports—the TPP will do ***nothing*** to stop manufacturers from closing up shop in the U.S. and moving to TPP countries with no carbon reduction scheme in order to sell cheaper, dirtier goods here and around the globe, undercutting not only our workers but our efforts to address climate change.

Labor: The status quo on labor (the so-called "May 10" agreement) is not working—continued worker repression in Colombia and Peru makes that obvious. Past trade deals allow total discretion to unjustifiably delay labor rights complaints (as has happened in cases against Guatemala and Honduras), or ignore them altogether. To address the extensive labor problems that exist in at least four TPP countries (Mexico, Vietnam, Brunei, and Malaysia)[3] the TPP must ensure all countries are in full compliance before TPP benefits are granted; it must eliminate the excessive discretion in enforcement; and it must address key issues such as migrant labor, anti-union violence, and adequate monitoring and enforcement. From what is publicly known about the TPP, these critical labor issues remain completely unaddressed.

Public Services: To ensure that the American people retain the right to determine the quantity, quality, type, and nature of public services offered by federal, state, and local governments, the AFL-CIO has insisted public services be totally carved out from the services commitments of the TPP. Governments must retain the right to freely—that is, without compensating foreign firms or trading partners—reverse failed privatization efforts. Neutral evaluators, such as the non-partisan Project on Government Oversight, have already compiled compelling data on wasteful privatization efforts,[4] which underscores the need to keep public services policies out of trade deals.

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[1] *See* Robert E. Scott, "Stop Currency Manipulation and Create Millions of Jobs," Economic Policy Institute, February 26, 2014, available at: http://www.epi.org/publication/stop-currency-manipulation-and-create-millions-of-jobs/.

[2] See FACT SHEET: U.S.-China Joint Announcement on Climate Change and Clean Energy Cooperation, available at: http://www.whitehouse.gov/the-press-office/2014/11/11/fact-sheet-us-china-joint-announcement-climate-change-and-clean-energy-c.

[3] "The Trans-Pacific Partnership: Four Countries that Don't Comply with U.S. Trade Law," AFL-CIO, http://www.aflcio.org/content/download/150491/3811471/file/TPPreport-NO+BUG.pdf.

[4] In 2011, the Project on Government Oversight (POGO) compared the costs of federal employees and contractors in a seminal study entitled *Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors*, the first to compare service contractor billing rates to the salaries and benefits of federal employees. POGO determined that "on average, contractors charge the government almost twice as much as the annual compensation of comparable federal employees. Of the 35 types of jobs that

State-Owned Enterprises: The AFL-CIO continues to be concerned about the ability of the TPP to adequately protect against unfair competition by state-owned and state-subsidized companies. Such companies often operate at a loss simply to drive U.S. competitors out of business. They may also buy U.S. companies simply to take technology to their home country, leaving U.S. workers holding the bag.

Rules of Origin: We remain concerned that the rules of origin for the TPP will not be effective at preventing "leakage." When TPP advocates claim that the TPP will ensure that the U.S. "writes the rules" of trade instead of China, Congress should ask whether China will in fact be able to benefit from the TPP without ever joining. If it can, it can still write its own rules. Weak rules of origin will promote greater use of Chinese inputs, which can be made in contravention of TPP rules, even though the finished products will be eligible for TPP tariff benefits. In particular, weak rules of origin in the auto supply chain will be a job killer.

Government Procurement: Government purchasing at the federal, state, and local levels is an important job creation tool that should not be blunted by treating American and foreign firms exactly the same. The AFL-CIO strongly supports the widest possible use of Buy American policies as well as bidding rules that include socially responsible criteria such as "clean hands" and preferences for firms that pay living wages and have better safety records. Public information about the TPP does not indicate that labor's concerns have been addressed.

Financial Services: The AFL-CIO has recommended changes to both the "prudential exception" and the "capital controls" provisions from prior trade agreements, to ensure countries can stabilize their economies without fear of being sued by large international banks trying to free themselves from regulation. Malaysia effectively used capital controls measures in the late 1990s to protect itself from the worst of the Asian financial crisis—and could be deterred from acting in a similar fashion in the future by a poorly written TPP. Congress must carefully consider whether the TPP will increase the likelihood of another global financial meltdown by deterring regulators from acting boldly in the face of an impending crisis.

Access to Medicines: The AFL-CIO has recommended that the U.S. preserve—at a minimum—the Bush-era "May 10" provisions on medicines; but leaked TPP text indicates that the TPP will reduce access to medicines. In particular, we urge the omission of provisions (like those in the U.S.-Korea FTA) that can interfere with efforts to keep government spending on drugs and medical devices in check. Quality, affordable, accessible healthcare is not only a human right, it enhances worker attendance and productivity. Trade policy should not interfere with public choices about how to make healthcare available to a nation's residents, nor should it threaten public health. Congress, therefore, must carefully consider whether the TPP will impede domestic healthcare policy or global development efforts.

The TPP has many additional problems, but addressing these top ten issues would be a good start to fixing its many flaws.

YOU can help!

- Call your Member of Congress and tell them NO TPP unless it's drastically reformed!
- Tell a friend or family member about the dangers of the TPP. Ask them to call Congress, too.
- Get more information here: http://www.aflcio.org/Issues/Trade
- Watch this video: https://www.youtube.com/watch?v=zq3ujEx9r5I
- Text TPP to 235246.

POGO looked at in its new report, it was cheaper to hire federal workers in all but just 2 cases." The report is available for download here: http://www.pogo.org/our-work/reports/2011/co-gp-20110913.html.