

BILL ANALYSIS

C.S.H.B. 485

By: Chavez

Border and International Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Fewer restrictions on capital flows, relaxed labor markets, and lower tariffs have led to a large increase in international trade during the last several decades, allowing for products and services to be traded across locations that previously would have been legally prohibited or economically unwise. Such a hyper-competitive economic environment has raised some concerns about the ability of United States' citizens to maintain or increase their standard of living. It is because of these concerns that some citizens believe taxpayer funds should not be used to benefit companies performing work outside of the United States.

The committee substitute to House Bill 485 prohibits a public agency from awarding a contract to an entity that proposes to perform part of the contract outside of the United States and prohibits providing development assistance to create employment outside of the United States.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1 Subtitle F, Title 10, Government Code, is amended by adding Chapter 2264 relating to the restrictions on the use of state funds to provide jobs to workers outside the United States.

Development assistance and public agency are defined.

Service Contracts

A public agency may not award a contract that is primarily for services and for which any part of the contract price will be paid with money derived directly or indirectly from the state treasury to a contractor if the contractor or any of its subcontractors propose to perform work outside the United States.

A contractor that submits a bid, proposal, or other offer to a public agency for a contract must include a statement certifying that the work, including work performed by subcontractors, will be performed in the United States.

A public agency that enters into a contract must include a provision stating that, in the event a contractor or subcontractor performs any part of the work outside the United States, the contract will be terminated and the contractor is liable to repay an amount equal to the amount paid by the public agency for the percentage of work that was performed outside of the United States. A contractor or other entity that has a contract terminated under the above provisions may not be awarded a similar contract for five years following the termination.

Development Assistance

A public agency may not provide development assistance to an entity that proposes to use the assistance to create employment outside the United States.

An entity that submits an application to a public agency for development assistance must include in the application a statement certifying that the employment created by the assistance will be created in the United States.

A public agency that provides development assistance must inform each proposed recipient in writing, and the recipient must agree to the condition, that in the event the recipient uses the assistance to create employment outside the United States, the assistance will be terminated and the recipient is liable to pay the public agency an amount equal to the portion of the dollar value of the assistance used to create employment outside the United States. A recipient of development assistance that has a form of development assistance terminated because the recipient used the assistance to create employment outside the United States may not be awarded any form of development assistance for five years following the termination.

Recovery of Funds

The public agency, or the attorney general at the request of a public agency that is a state agency, may bring a civil action to recover any amounts owed to the agency and may recover court costs and reasonable attorney's fees incurred in such an action.

SECTION 2 The changes made to public contracting procedures apply only to a contract for which a public agency first advertises or otherwise solicits bids, proposals, offers, or qualifications, as applicable, on or after September 1, 2005. All other offers prior to then are governed by the law as it existed at that time.

SECTION 3 The changes relating to the provision of development assistance by a public agency apply only to development assistance provided in response to an application for the assistance that a public agency receives on or after September 1, 2005. Any assistance provided in response to an application for the assistance that a public agency receives before September 1, 2005, is governed by the law as it existed at that time.

SECTION 4 The Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute simply changes all references of "foreign workers" to "workers outside the United States."