

By: Chavez

H.B. No. 485

Substitute the following for H.B. No. 485:

By: Castro

C.S.H.B. No. 485

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the use of state funds to provide jobs for workers outside the United States.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2264 to read as follows:

CHAPTER 2264. RESTRICTIONS ON THE USE OF STATE FUNDS
TO PROVIDE JOBS FOR WORKERS OUTSIDE THE UNITED STATES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2264.001. DEFINITIONS. In this chapter:

(1) "Development assistance" means a public program or public benefit or assistance of any type that is designed to stimulate the economic development of a corporation, industry, or sector of the state's economy, including a geographic area of the state. The term includes bonds, training grants, loans, loan guarantees, benefits relating to an enterprise or empowerment zone, tax increment financing, fee waivers, land price subsidies, infrastructure development and improvements designed to principally benefit a single business or defined group of businesses, matching funds, tax abatements, or any type of tax credit, tax discount, or tax exemption. The term does not include tax abatements, credits, discounts, or exemptions specifically authorized by the Texas Constitution.

(2) "Public agency" means this state or an agency,

1 instrumentality, or political subdivision of this state, including
2 a county, a municipality, a public school district, or a
3 special-purpose district or authority.

4 [Sections 2264.002-2264.050 reserved for expansion]

5 SUBCHAPTER B. RESTRICTIONS ON SERVICE CONTRACTS THAT PROVIDE

6 JOBS TO WORKERS OUTSIDE THE UNITED STATES

7 Sec. 2264.051. APPLICABILITY. This subchapter applies only
8 in relation to a contract:

9 (1) that is primarily a contract for services; and

10 (2) for which any part of the contract price will be
11 paid with money derived directly or indirectly from the state
12 treasury.

13 Sec. 2264.052. PROHIBITION ON CERTAIN SERVICE CONTRACTS. A
14 public agency may not award a contract to a contractor if the
15 contractor or any of its subcontractors propose to perform work
16 under the contract in a country other than the United States.

17 Sec. 2264.053. STATEMENT REQUIRED IN BIDS AND PROPOSALS. A
18 contractor that submits a bid, proposal, or other offer to a public
19 agency for a contract must include in the bid, proposal, or other
20 offer a statement certifying that the work required by the
21 contract, including work performed by subcontractors, will be
22 performed in the United States.

23 Sec. 2264.054. PROVISION IN SERVICE CONTRACTS. A public
24 agency that enters into a contract must include in the contract a
25 provision stating that, in the event a contractor or subcontractor
26 performs any part of the work under the contract in a country other
27 than the United States, the contract will be terminated and the

1 contractor is liable to repay the public agency an amount equal to
2 the amount paid by the public agency for the percentage of work that
3 was performed in a country other than the United States.

4 [Sections 2264.055-2264.100 reserved for expansion]

5 SUBCHAPTER C. RESTRICTIONS ON USE OF DEVELOPMENT ASSISTANCE TO

6 PROVIDE JOBS TO WORKERS OUTSIDE THE UNITED STATES

7 Sec. 2264.101. LIMITATION ON DEVELOPMENT ASSISTANCE. A
8 public agency may not provide development assistance to an entity
9 that proposes to use the assistance to create employment in a
10 country other than the United States.

11 Sec. 2264.102. STATEMENT REQUIRED IN APPLICATIONS FOR
12 DEVELOPMENT ASSISTANCE. An entity that submits an application to a
13 public agency for development assistance must include in the
14 application a statement certifying that the employment created by
15 the assistance will be created in the United States.

16 Sec. 2264.103. CONDITION ON RECEIPT OF DEVELOPMENT
17 ASSISTANCE. (a) A public agency that provides development
18 assistance must inform each proposed recipient, in writing, that in
19 the event the recipient uses the assistance to create employment in
20 a country other than the United States, the assistance will be
21 terminated and the recipient is liable to pay the public agency an
22 amount equal to the portion of the dollar value of the assistance
23 used to create employment in a country other than the United States.

24 (b) The recipient must agree to this condition to receive
25 the development assistance.

26 [Sections 2264.104-2264.150 reserved for expansion]

1 SUBCHAPTER D. PENALTIES AND ENFORCEMENT

2 Sec. 2264.151. BARRING FROM FUTURE CONTRACTS OR DEVELOPMENT
3 ASSISTANCE. (a) A contractor or other entity that has a contract
4 terminated under Subchapter B may not be awarded a contract to which
5 Subchapter B applies before the fifth anniversary of the date on
6 which the public agency terminated the contract.

7 (b) A recipient of development assistance that has a form of
8 development assistance terminated by a public agency because the
9 agency determined that the recipient used the assistance to create
10 employment in a country other than the United States may not be
11 awarded any form of development assistance before the fifth
12 anniversary of the date on which the agency terminated the
13 assistance.

14 Sec. 2264.152. RECOVERY. (a) The public agency, or the
15 attorney general at the request of a public agency that is a state
16 agency, may bring a civil action to recover any amounts owed to the
17 agency under this chapter.

18 (b) The public agency or attorney general, as applicable,
19 may recover court costs and reasonable attorney's fees incurred in
20 an action brought under Subsection (a).

21 SECTION 2. (a) The changes in law made by this Act to public
22 contracting procedures apply only to a contract for which a public
23 agency first advertises or otherwise solicits bids, proposals,
24 offers, or qualifications, as applicable, on or after September 1,
25 2005.

26 (b) A contract for which a public agency first advertised or
27 otherwise solicited bids, proposals, offers, or qualifications, as

1 applicable, before September 1, 2005, is governed by the law as it
2 existed immediately before the effective date of this Act, and that
3 law is continued in effect for that purpose.

4 SECTION 3. (a) The changes in law made by this Act relating
5 to the provision of development assistance by a public agency apply
6 only to development assistance provided in response to an
7 application for the assistance that a public agency receives on or
8 after September 1, 2005.

9 (b) Development assistance provided in response to an
10 application for the assistance that a public agency receives before
11 September 1, 2005, is governed by the law as it existed immediately
12 before that date, and the prior law is continued in effect for that
13 purpose.

14 SECTION 4. This Act takes effect September 1, 2005.