

By: Chavez

H.B. No. 485

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the use of state funds to provide jobs for foreign workers.

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 FOREIGN WORKERS

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 FOREIGN WORKERS

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 FOREIGN WORKERS

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]

27 SUBCHAPTER D. PENALTIES AND ENFORCEMENT

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

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

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

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

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

25       (b) A contract for which a public agency first advertised or  
26 otherwise solicited bids, proposals, offers, or qualifications, as  
27 applicable, before September 1, 2005, is governed by the law as it

1 existed immediately before the effective date of this Act, and that  
2 law is continued in effect for that purpose.

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

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

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