

By: Davis of Dallas

H.B. No. 1655

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the preference given by state agencies to goods offered
3 by bidders in this state or manufactured, produced, or grown in this
4 state or in the United States.

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

6 SECTION 1. Section 2155.444, Government Code, is amended by
7 amending Subsections (a), (b), and (c) and adding Subsections
8 (a-1), (b-1), (b-2), (b-3), and (b-4) to read as follows:

9 (a) The comptroller [~~commission~~] and all state agencies
10 making purchases of goods, including agricultural products, shall
11 promote the purchase of and give preference to goods manufactured,
12 [~~those~~] produced, or grown in this state or offered by Texas bidders
13 as follows:

14 (1) unless the state agency determines that the goods
15 are not available in reasonably sufficient quantities, goods
16 manufactured, produced, or offered by a Texas bidder that is owned
17 by a service-disabled veteran who is a Texas resident shall be given
18 a first preference and goods produced in this state or offered by
19 other Texas bidders shall be given second preference [~~, if the cost~~
20 ~~to the state and quality are equal~~]; and

21 (2) unless the state agency determines that the
22 agricultural products are not available in reasonably sufficient
23 quantities, agricultural products grown in this state shall be
24 given first preference and agricultural products offered by Texas

1 bidders shall be given second preference [~~, if the cost to the state~~
2 ~~and quality are equal~~].

3 (a-1) A state agency that determines goods manufactured,
4 produced, or grown in this state or offered by a Texas bidder are
5 not available in reasonably sufficient quantities shall:

6 (1) at least 30 days before purchasing the goods
7 publish a copy of the agency's determination for public comment;

8 (2) file a written copy of the determination with the
9 comptroller and other relevant state agencies; and

10 (3) work with the comptroller and other state agencies
11 to ensure the goods are available from a Texas bidder in the future.

12 (b) If goods, including agricultural products,
13 manufactured, produced, or grown in this state or offered by Texas
14 bidders are not available in reasonably sufficient quantities, the
15 [equal in cost and quality to other products, then] goods,
16 including agricultural products, manufactured, produced, or grown
17 in other states of the United States shall be given preference over
18 foreign products unless the agency determines that the goods are
19 not available in reasonably sufficient quantities [~~if the cost to~~
20 ~~the state and quality are equal~~].

21 (b-1) A state agency that determines goods manufactured,
22 produced, or grown in another state are not available in reasonably
23 sufficient quantities shall:

24 (1) at least 30 days before purchasing the goods
25 publish a copy of the agency's determination for public comment;

26 (2) file a written copy of the determination with the
27 comptroller and other relevant state agencies; and

1 (3) work with the comptroller and other state agencies
2 to ensure the goods are available from a Texas bidder or from
3 another state in the future.

4 (b-2) A contract between a state agency and any person who
5 is given preference under this section must contain a provision
6 that requires the person to certify the goods provided under the
7 contract or any subcontract are manufactured, produced, or grown in
8 this state or in the United States or offered by a Texas bidder, as
9 applicable.

10 (b-3) If a state agency determines a person who was awarded
11 a contract through the use of a preference under Subsection (a) or
12 (b) knowingly provided goods under the contract that were not
13 manufactured, produced, or grown in this state or another state of
14 the United States or offered by a Texas bidder, as applicable, the
15 contracting agency and all other state agencies are prohibited from
16 contracting with the person before the fifth anniversary of the
17 date the contracting agency made the determination. The
18 contracting agency shall notify the comptroller of the
19 determination and the comptroller shall notify all other state
20 agencies of the determination. The contracting agency may:

- 21 (1) void the contract with the person; and
22 (2) recover damages in a civil action in an amount
23 equal to three times the value of the preference given to the
24 person.

25 (b-4) Nothing in this section is intended to contravene an
26 existing treaty, law, agreement, or regulation of the United
27 States. A preference may not be granted under this section if the

1 preference would contravene any treaty, law, agreement, or
2 regulation of the United States.

3 (c) In this section:

4 (1) "Agricultural products" includes textiles and
5 other similar products.

6 (2) "Manufactured" means, with respect to assembled
7 goods, the final assembly, processing, packaging, testing, or other
8 process that adds value, quality, or reliability.

9 (3) [~~(1-a)~~] "Service-disabled veteran" means a person
10 who is a veteran as defined by 38 U.S.C. Section 101(2) and who has a
11 service-connected disability as defined by 38 U.S.C. Section
12 101(16).

13 (4) [~~(2)~~] "Texas bidder" means a business:

14 (A) incorporated in this state;

15 (B) that has its principal place of business in
16 this state; or

17 (C) that has an established physical presence in
18 this state.

19 SECTION 2. The change in law made by this Act applies only
20 to a contract for goods that is entered into on or after the
21 effective date of this Act. A contract entered into before the
22 effective date of this Act is governed by the law in effect on the
23 date the contract was entered into, and the former law is continued
24 in effect for that purpose.

25 SECTION 3. This Act takes effect September 1, 2011.