

SENATE BILL REPORT

SB 5777

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 1, 2005

Title: An act relating to prohibiting the offshoring of work under state contracts.

Brief Description: Prohibiting the offshoring of work under state contracts.

Sponsors: Senators Kohl-Welles, Pridemore, Shin, Franklin, Kastama, Regala, Kline, Poulsen, Thibaudeau, Keiser, Eide, Prentice and Berkey.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/28/05, 3/1/05 [DPS-WM, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5777 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

Minority Report: Do not pass.

Signed by Senators Parlette, Ranking Minority Member; and Honeyford.

Staff: Alison Mendiola (786-7483)

Background: State Procurement. The State of Washington contracts with individuals and companies outside of state government to provide certain services to the state and its residents. The state's purchasing authority is generally organized into categories based on the type of service. These categories include the following:

- Personal services. This term refers to professional or technical expertise provided by a consultant to accomplish a specific study or project;
- Purchased services. These are services provided by a vendor to accomplish routine, continuing and necessary functions;
- Information services. These services include data processing, telecommunications, office automation, and computerized information systems;
- Public works. This term refers to the construction, repair, or alteration of buildings and other real property;
- Highway design and construction. This term includes both architectural and engineering services, as well as construction services related to highways; and
- Printing services. This term refers to the production of printed materials.

In addition, beginning July 1, 2005, the state may contract for services historically and traditionally provided by state employees, so long as the state complies with the contracting out provisions of the Civil Service Reform Act of 2002.

Summary of Substitute Bill: Services performed under certain state contracts, or under subcontracts awarded under such contracts, may not be performed at locations outside the United States. This prohibition applies to state personal services, purchased services, and civil service contracts.

This prohibition does not apply to goods procured under certain state contracts, or to certain state contracts entered into by the state prior to July 1, 2006.

This prohibition also does not apply if the director of the Office of Financial Management (OFM) determines that the only practicable location where the services may be performed is clearly and justifiably a location outside the United States. Annual reports from the director of OFM to the House Commerce & Labor Committee and the Senate Labor, Commerce, Research & Development Committee on such contracts are required.

Contracts involving parties to various trade agreements applicable to government procurement that would violate the terms of these agreements are not subject to the prohibition of offshoring.

Research projects, study abroad programs, academic press printing and publications, or all nonstate funds received by state institutions of higher education are not subject to the prohibition of offshoring.

All work under a public works contract or subcontract for the fabrication of manufacture of nonstandard items specifically for a public works project may be not performed at a location outside the United States.

Substitute Bill Compared to Original Bill: The original bill did not exempt certain activities of state institutions of higher education or contracts involving parties to various trade agreements from the prohibition of offshoring. The original bill did not limit public works contract or subcontracts for the fabrication of specific items to locations within the United States.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately, except for section 3 of this act which takes effect on July 1, 2006.

Testimony For: The idea of more oversight on procurement on state contracts is supported but before we completely prohibit offshoring, we should take a closer look at the state procurement process, like HB 2144. Having the OFM exception is a good idea because there are some contracts that can only be procured at locations outside of the United States.

Other: The Department of Agriculture has offices in Asian critical to getting products, like potatoes, into the Asian market. There is a concern of having to go through OFM to get an exception, and each agency should be able to determine for itself whether the only reasonable location for a particular contract is a location outside of the United States.

Testimony Against: There is nothing wrong with making a competitive business decision to do business outside of the United States. By creating a blanket prohibition, the state will have to pay more for many contracts. Looking at the procurement policies of the state is a better idea. This bill fails to recognize why there are state contracts outside of the United States. This idea may backfire because the bill makes no mention of a Washington preference so the result may be that contracts go to different states where the cost of doing business, and labor is cheaper.

Who Testified: PRO: Bev Hermanson, WA State Federation of State Employees; Bob Doyle, WA State Federation of State Employees; and Mike Woodin, University of Washington. OTHER: Charlie Brown, WA Potato and Onion Association.

CON: Kris Teft, Association of Washington Businesses; and Nancy Atwood, AeA.