

Report Title:

State Contracts and Development Assistance; Bans Offshore Work

Description:

Bans State from contracting with or giving development assistance to companies that contract work offshore. Requires violating companies to repay to the State the amount paid for the percentage of work done by offshore workers. Bans violators from receiving contracts or development assistance for 5 years.

THE SENATE
TWENTY-THIRD
LEGISLATURE, 2005
STATE OF HAWAII

S.B. NO. 538

A BILL FOR AN ACT

relating to procurement.

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

SECTION 1. The legislature finds that state departments and agencies procure services in part through contracts with private vendors. Increasingly, private vendors carry out these services, or subcontract or otherwise procure these services, from a location outside the United States. This international outsourcing exacerbates unemployment and workforce dislocation and deprives Hawaii residents of job opportunities, including industries and jobs this State has expended development assistance resources to attract. International outsourcing erodes state and county revenues by drawing jobs and income away from the State. In

addition, international outsourcing may provide less privacy protections for state residents whose personal information, in the course of service delivery, may be transmitted to locations outside the United States.

The purpose of this Act is to ensure that state dollars are used to create jobs within the State and to stabilize the state tax base by prohibiting state departments and agencies from contracting with or providing economic development assistance to companies that ship work offshore.

SECTION 2. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§103D- Contracting; overseas work prohibited; certification; noncompliance; penalty; civil action. (a)
This section shall apply to:

- (1) All contracts under this chapter;
and
- (2) All state-funded development assistance.

For the purpose of this section, "development assistance" means any form of public assistance, including tax expenditures, made for the purpose of stimulating economic development of a corporation, industry, geographic jurisdiction, or any other sector of the State's economy, including industrial development bonds, training grants, loans, loan guarantees, enterprise zones, empowerment zones, tax increment financing, fee waivers, land price subsidies, infrastructure whose principal beneficiary is a single business or defined group of businesses at the time the business or businesses are built or improved, matching funds, tax abatements, tax credits and tax discounts of every kind, including corporate franchise, personal income, sales, and compensating use, raw materials, real property, job creation, individual investment, excise, utility, inventory, accelerated depreciation, and research and development tax credits and discounts.

(b) No contracting governmental body shall award a contract or development assistance to a vendor, bidder, contractor, subcontractor, or applicant for development assistance that

performs the work at a site outside of the United States. Nothing in this section shall be construed to supersede or replace existing requirements in place for development assistant programs.

(c) Each vendor submitting a bid or contract to provide services and all development assistance applicants shall certify that the services covered by the bid, contract, or development assistance shall be performed within the United States.

(d) If, during the term of the contract, the vendor, contractor, subcontractor, or development assistance recipient shifts overseas any work that is funded under the contract, the contracting governmental body shall terminate the contract for noncompliance. In addition, the vendor, contractor, subcontractor, or development assistance recipient shall forfeit penalties to the contracting governmental body in an amount equal to the amount paid by the contracting governmental body for the percentage of work that was performed with workers outside the United States. Any noncompliant contractor, subcontractor, vendor, bidder, or development assistance recipient shall not be awarded any state contract or development assistance for a period of five years from the date of determination of noncompliance.

(e) The contracting governmental body shall be entitled to bring a civil action in state or federal court to compel enforcement under this section. The court shall award reasonable attorney's fees and costs to the contracting governmental body."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____