

Bill Text

]]]] LEGISLATURE OF THE STATE OF IDAHO]]]]
Fifty-eighth Legislature First Regular Session -
2005

IN THE SENATE

SENATE BILL NO. 1150

BY STATE AFFAIRS COMMITTEE

1 AN ACT
2 RELATING TO CONTRACTS BY GOVERNMENTAL ENTITIES; AMENDING CHAPTER
23, TITLE 67,
3 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2303, IDAHO
CODE, TO PRO-
4 VIDE ADDITIONAL REQUIREMENTS FOR PERSONS OR ENTITIES
ENTERING INTO CON-
5 TRACTS WITH THE STATE, TO PROHIBIT THE STATE FROM AWARDING A
CONTRACT TO A
6 CONTRACTOR OR SUBCONTRACTOR WHO PERFORMS THE WORK AT A SITE
OUTSIDE OF THE
7 UNITED STATES, TO PROVIDE EXCEPTIONS, TO PROVIDE FOR DAMAGES
AND TO PRO-
8 VIDE FOR CIVIL PENALTIES.

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Chapter 23, Title 67, Idaho Code, be,
and the same is
11 hereby amended by the addition thereto of a **NEW SECTION**, to be
known and des-
12 igned as Section 67-2303, Idaho Code, and to read as follows:

13 67-2303. CONTRACTS. This section shall apply to all
state contracts

14 except contracts for the delivery of educational services by
public universi-

15 ties at a foreign location.

16 (1) All state agencies, departments, boards or
commissions are prohib-

17 ited from awarding a contract to a contractor or subcontractor
who performs

18 the work at a site outside the United States unless the
work is so unique

19 that it can only be performed outside the United States.

20 (2) Each vendor submitting a bid or contract to provide
services for the

21 state shall certify that the services covered by the bid or
contract will be

22 performed in the United States unless the work is so unique
that it can only

23 be performed outside the United States.
24 (3) If, during the life of a contract with a state agency
or department,
25 the contractor or subcontractor transfers the work contracted
for outside the
26 country, then the state agency, department, board or commission
shall require
27 the contractor or subcontractor to pay damages in an amount
equal to the
28 amount paid by the agency for the work. The agency shall also
terminate the
29 contract for noncompliance with the outsourcing prohibition.
30 (4) The state agency, department, board or commission may
bring a civil
31 action in state or federal court to compel enforcement under
this section. The
32 court may award reasonable attorney's fees and costs to the
agency, depart-
33 ment, board or commission.
34 (5) A state agency, department, board or commission shall
be exempt from
35 the provisions of this section if the work, goods or services
needed cannot be
36 obtained from a source within the United States and the state
agency, depart-
37 ment, board or commission is provided with a sole source letter
from the pri-
38 vate vendor stating that they are the only source that can
provide the work,
39 goods or services. There shall be a civil penalty not in excess
of fifty thou-
40 sand dollars (\$50,000) assessed against any person or entity
who willfully
41 misleads the state agency, department, board or commission by
alleging that
42 the vendor is a sole source provider for the respective work,
goods or ser-
43 vices. The attorney general shall institute a civil
enforcement action for a

2

1 violation of the provisions of this section if the violation
involves a con-
2 tract with the state. The civil penalty shall be remitted to the
general fund.

Amendment

Stennett

Moved by

Seconded by Little

IN THE SENATE
SENATE AMENDMENT TO S.B. NO. 1150

AMENDMENT TO SECTION 1

1
2 On page 1 of the printed bill, delete lines 13 through 43
and delete page

3 2 and insert:

4 "67-2303. CONTRACTS. This section shall apply to all
contracts for ser-

5 vices except contracts for the delivery of research or
educational services by

6 public universities or colleges at a location outside the
United States.

7 (1) All state agencies, departments, boards or commissions
are prohib-

8 ited from awarding a contract for services to a contractor
who performs the

9 services, or has the services performed, at a site outside the
United States

10 unless the services are so unique that they can only be
performed outside

11 the United States.

12 (2) Each vendor submitting a bid or contract to provide
services for the

13 state shall certify that the services covered by the bid or
contract will be

14 performed in the United States unless the services are so
unique that they

15 can only be performed outside the United States.

16 (3) The state agency, department, board or commission may
bring a civil

17 action to compel enforcement under this section. The court may
award reason-

18 able attorney's fees and costs to the agency, department, board
or commission.

19 (4) For purposes of this section, a service shall be
deemed to be unique

20 if it is performed at a site outside the United States, if a
significant and

21 substantial economic cost factor exists that outweighs the
economic impact of

22 providing the services within the United States, such that a
failure to use

23 the vendor's services would result in economic hardship to the
state of Idaho.

24 (5) A state agency, department, board or commission shall
be exempt from

25 the provisions of this section if it is provided with a
letter from the

26 vendor stating that it is the only source that can provide
services and the

27 services are so unique that they can only be performed
outside the United
28 States. There shall be a civil penalty not in excess of fifty
thousand dol-
29 lars (\$50,000) assessed against any person or entity who
willfully misleads
30 the state agency, department, board or commission under this
section. The
31 civil penalty shall be remitted to the general fund.".

32 CORRECTION TO TITLE
33 On page 1, in line 5, following "TRACTS" insert: "FOR
SERVICES"; and also
34 in line 5, following "CONTRACT" insert: "FOR SERVICES"; in line
6, delete "OR
35 SUBCONTRACTOR"; and also in line 6, delete "WORK" and insert:
"SERVICES OR HAS
36 THE SERVICES PERFORMED".

Engrossed Bill (Original Bill with Amendment(s) Incorporated)

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6 CONTRACT FOR SERVICES TO A CONTRACTOR WHO PERFORMS THE
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7 SERVICES PERFORMED AT A SITE OUTSIDE OF THE UNITED
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25 (3) The state agency, department, board or commission may
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37 States. There shall be a civil penalty not in excess of fifty
thousand dol-
38 lars (\$50,000) assessed against any person or entity who
willfully misleads
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section. The
40 civil penalty shall be remitted to the general fund.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE

RS 14949

The outsourcing of jobs offshore is detrimental to the economy of the State of Idaho and the United States of America. Taxpayers should not be expected to support this practice. This measure would require that state agencies may not contract with contractors or vendors who perform services offshore that could easily be performed by those residing in the United States.

FISCAL IMPACT

The state Department of Health and Welfare currently has some phone banks contracted overseas (India). The cost to have those calls answered in the United States would be \$124,700 to the general fund and \$142,900 from federal funds. This cost does not take into account the fiscal benefits of state monies allocated to the United States residents who would perform those jobs.

Contact

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STATEMENT OF PURPOSE/FISCAL NOTE

S 1150