

AMENDED IN ASSEMBLY APRIL 26, 2004

AMENDED IN ASSEMBLY MARCH 18, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1829

Introduced by Assembly Member Liu

**(Principal coauthors: Assembly Members ~~Koretz and Jackson,~~
Koretz, and Lieber)**

**(Coauthors: Assembly Members Chavez, Hancock, Longville,
Montanez, Mullin, and Pavley)**

(Coauthor: Senator Romero)

January 20, 2004

An act to add Chapter 3.55 (commencing with Section 12140) to Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1829, as amended, Liu. Public contracts: services: domestic workers.

Existing law requires a state agency to comply with specified procedures in awarding agency contracts. Existing law authorizes a state agency to prohibit a person that is convicted of committing specified crimes from bidding on or being awarded agency contracts, as specified.

This bill would prohibit a state agency or local government, as defined, from allocating or expending state funds for employment training for employees located in foreign countries, ~~and~~. *This bill would also prohibit a state agency, or a local government in expending funds provided by a state agency, from contracting for services with a*

contractor or subcontractor unless that contractor or subcontractor certifies under penalty of perjury in his or her bid for the contract that the contract, and any subcontract performed under that contract, will be performed solely with workers within the United States. *This bill would authorize a state agency or local government to waive this requirement, with the consent of the State Controller, if certain conditions are met.*

This bill would also require the contract to include a clause for termination for noncompliance and specified penalties, if the contractor or subcontractor ~~shifts work overseas~~ *performs the contract or the subcontract with workers outside the United States* during the life of the contract.

By requiring contractors and subcontractors to make certifications under penalty of perjury, this bill would create a new crime and thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The United States has lost nearly 3 million jobs over the last
4 three years, with at least 15 percent of these jobs outsourced to a
5 foreign country.

6 (b) Outsourcing by the state and local government technology
7 sector is a growing trend, with an estimated \$10 billion in net
8 contract value subject to outsourcing to foreign countries in 2003.
9 By 2008, an estimated \$23 billion in net contract value will be
10 subject to outsourcing by the state and local government
11 technology sector.

12 (c) Contractors and subcontractors are using taxpayer dollars to
13 create jobs in foreign countries. State taxpayer funds should be
14 used to create jobs in the United States and in California.



1 SEC. 2. Chapter 3.55 (commencing with Section 12140) is
2 added to Part 2 of Division 2 of the Public Contract Code, to read:

3
4 CHAPTER 3.55. OFFSHORING STATE SERVICE CONTRACTS
5

6 12140. (a) Notwithstanding any other provision of law ,
7 neither a state agency nor a local government in expending funds
8 provided by a state agency may contract for services with a
9 contractor or subcontractor unless that contractor or subcontractor
10 certifies under penalty of perjury in his or her bid for the contact
11 that the contract, and any subcontract performed under that
12 contract, will be performed solely with workers within the United
13 States.

14 (b) Notwithstanding any other provision of law, state funds for
15 employment training may not be allocated or expended to train
16 employees located in foreign countries.

17 (c) The contract shall provide that in the event a contractor or
18 subcontractor ~~shifts work overseas~~ *performs the contract or the*
19 *subcontract with workers outside the United States* during the life
20 of the contract, the contract shall be terminated for noncompliance
21 and the contractor or subcontractor shall forfeit penalties to the
22 state agency or local government in an amount equal to the amount
23 paid by the state agency or local government for the percentage of
24 ~~outsourced work.~~ *work that was performed with workers outside*
25 *the United States.*

26 (d) (1) *A state agency or local government may waive the*
27 *requirements of subdivision (a) for a particular contract, for a*
28 *period not to exceed six months per waiver, if that state agency or*
29 *local government submits a written finding to the Controller, and*
30 *the Controller does not reject that finding within 30 days of receipt,*
31 *that either of the following are true:*

32 (A) *The contract is necessary to respond to an emergency, as*
33 *determined by the state agency or local government, for all of the*
34 *following reasons:*

35 (i) *The ability of the state agency or local government to*
36 *provide essential services would be adversely affected if the*
37 *contract is not performed.*

38 (ii) *The public health, safety, and welfare would be endangered*
39 *if the contract is not performed.*

1 (iii) A contractor or subcontractor that has the ability to
2 perform the contract solely with workers within the United States
3 is not immediately available to perform the contract.

4 (B) The contract is necessary to provide a unique service, as
5 determined by the state agency or local government, for both of the
6 following reasons:

7 (i) The state agency or local government deems as mandatory
8 the particular service to be performed under the contract.

9 (ii) Domestic workers cannot adequately perform the unique
10 service to be performed under the contract.

11 (2) A state agency or local government that seeks a waiver
12 under paragraph (1) shall, at the same time that the entity provides
13 the written finding to the Controller; provide a copy of that written
14 finding to the Assembly Committee on Business and Professions,
15 the Assembly Committee on Budget, the Senate Committee on
16 Governmental Organization, and the Senate Committee on Budget
17 and Fiscal Review.

18 (3) If the Controller rejects a written finding while the contract
19 is being performed or after the contract has been performed, the
20 contractor or subcontractor shall forfeit penalties to the state
21 agency or local government in an amount equal to the amount paid
22 by the state agency or local government for the percentage of work
23 that was performed with workers outside the United States.

24 (e) As used in this section, the following definitions apply:

25 (1) “Local government” means any county, city, city and
26 county, including a charter city or county, any special district, or
27 any other local or regional government entity.

28 (2) “State agency” means any state office, officer, department,
29 division, bureau, board, commission, agency, or any subdivision
30 thereof, that is part of state government.

31 SEC. 3. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within



1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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