

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Liu, et al. Analyst: Kristina E. North Bill Number: AB 1829

Related Bills: See Prior Analysis Telephone: 845-6978 Amended Date: June 17, 2004

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agency Contracts/Prohibits Expending State Funds For Employee Training And Service Contracts With Contractors Or Subcontractors Outside The U.S./Waiver of Regulations

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended May 20, 2004.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED MAY 20, 2004, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would prohibit state and local governments from contracting for services unless the contractor first certifies that the work will be performed in the United States.

SUMMARY OF AMENDMENTS

The June 17, 2004, amendments made the following changes:

- ◆ Specified that this bill applies to state agencies expending moneys from State Treasury funds;
- ◆ Excluded contracts for seismic retrofitting work on state highway projects that are entered into on or before January 1, 2006; and
- ◆ Made nonsubstantive, technical changes.

The amendment also resolved the technical consideration in the department's analysis of the bill as amended May 20, 2004. For convenience, the implementation consideration and legal impact from the previous analysis is included below. The remainder of the department's previous analysis still applies.

POSITION

No position.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input checked="" type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

7/8/04

IMPLEMENTATION CONSIDERATION

Assuming this bill is effective and operative January 1, 2005, the language is silent on whether this bill is intended to apply to contracts awarded before that date. Absent clarifying language, the department would assume existing contracts are valid and would not be set aside. If, however, the bill is to be applicable to all existing state contracts, several significant legal concerns could arise.

LEGAL IMPACT

Article I, section 10, of the U.S. Constitution provides that "No state shall pass any . . . law impairing the obligation of contracts[".]” Since this bill could be interpreted to apply to contracts entered into prior to the operative date of the bill, it could implicate this federal constitutional prohibition.

LEGISLATIVE STAFF CONTACT

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