



Ohio Legislative Service Commission

Bill Analysis

Julie A. Rishel

H.B. 403

129th General Assembly
(As Introduced)

Reps. R. Hagan, Foley, Ramos, Pillich, Yuko, Letson, Antonio, Gerberry, Lundy, Phillips, Murray

BILL SUMMARY

- Prohibits a state agency or political subdivision from awarding a contract for goods or services paid for in whole or in part with state funds unless the person to whom the contract is awarded certifies that all labor and services to be performed in connection with the contract will be performed within the United States.
- Requires a state agency or political subdivision to terminate the contract if, during the term of the contract, any labor or service performed in connection with the contract is performed at a location not within the U.S.
- Prohibits a state agency or political subdivision from providing economic development assistance unless the person to whom the assistance is provided certifies that all labor affected by the assistance will be labor within the U.S. and that all services performed as a result of the assistance will be performed within the U.S.
- Requires a state agency or political subdivision, if any labor affected by the economic development assistance is labor not within the U.S. or any service performed as a result of the assistance is performed at a location not within the U.S., to reduce the amount or term of the assistance accordingly.
- Allows a state agency or political subdivision to bring a civil action against the person who was awarded the contract or economic development incentive.
- Prohibits a person whose contract has been terminated or economic development incentive has been reduced under the bill from being awarded a public contract or economic development incentive, respectively, for a period of five years.

CONTENT AND OPERATION

Public contracts

The bill prohibits a state agency or political subdivision from awarding a contract on or after the bill's effective date for goods or services paid for in whole or in part with state funds unless the person to whom the contract is awarded certifies that all labor and services to be performed in connection with the contract will be performed at a location within the United States. If, during the term of the contract, any labor or service performed in connection with the contract is performed at a location not within the U.S., the bill requires the contract to be terminated by the state agency or political subdivision for noncompliance. The person to whom the contract was awarded must forfeit to the state agency or political subdivision the amount paid by the state agency or political subdivision for the percentage of labor or services that was performed at a location not within the U.S.¹

Economic development incentives

Similar to the contract prohibition described above, the bill prohibits a state agency or political subdivision from providing economic development assistance on or after the bill's effective date unless the person to whom the assistance is provided certifies that all labor affected by the assistance will be labor within the U.S. and that all services performed as a result of the assistance will be performed at a location within the U.S.² "Economic development assistance," under the bill, means all of the following:

- The programs and assistance provided or administered by the Department of Development under the Department of Development Law, the Economic Development Program Law, and any other state law under which the Department provides or administers economic development assistance;
- The tax credit authorized by the Ohio Training Tax Credit Program³ and any other tax credit offered by the state to promote economic development;
- Economic development assistance that is provided or administered by a state agency under any other section of the Revised Code;

¹ R.C. 9.242(B) and (C) and Section 2.

² R.C. 9.662(B) and Section 2.

³ R.C. 5725.31, 5729.07, 5733.42, and 5747.39, not in the bill.

- Economic development assistance that is provided or administered by a political subdivision and is funded, in whole or in part, with state money.⁴

If any labor affected by the economic development assistance is labor not within the U.S. or any service performed as a result of the assistance is performed at a location not within the U.S., the bill requires the state agency or political subdivision to reduce the amount or term of the assistance accordingly.⁵

Civil action

The bill permits the state or a political subdivision, as applicable, to bring a civil action for the recovery of money due the state or political subdivision in the amount paid by the state agency or political subdivision under a contract for the percentage of labor or services that was performed at a location not within the U.S. or the amount or term of the economic development assistance that was reduced, as applicable. If the state or political subdivision obtains a judgment against the person to whom the contract or economic development assistance was awarded, the bill requires the court to award reasonable attorney's fees and costs.⁶

Five-year restriction on public contracts or economic development assistance

During the five-year period immediately following the termination of a contract under the bill, the bill makes the person to whom the contract was awarded ineligible for any other contract for goods or services paid for in whole or in part with state funds. Similarly, if the amount or term of economic development assistance is reduced pursuant to the bill, the person to whom the assistance was awarded is not, for five years thereafter, eligible for any other economic development assistance.⁷

Definitions

The bill defines the following terms:

- "Political subdivision" means any Ohio county, municipal corporation, or township.

⁴ R.C. 9.662(A).

⁵ R.C. 9.662(C).

⁶ R.C. 9.242(D) and 9.662(D).

⁷ R.C. 9.242(E) and 9.662(E).

- "State agency" means every organized body, office, or agency established by Ohio laws for the exercise of any function of state government.⁸

HISTORY

ACTION	DATE
Introduced	12-28-11

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⁸ R.C. 9.242(A) and 9.662(A).

