

SUBJECT: Preference in state procurement extended to goods manufactured in Texas

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Cook, Giddings, Farrar, Frullo, Harless, Huberty, Menéndez, Sylvester Turner

5 absent — Craddick, Geren, Hilderbran, Oliveira, Smithee

WITNESSES: For — Thornton Medley, United Steelworkers District 13 Council; John Patrick, Texas AFL-CIO; (*Registered, but did not testify*: Dennis Anderson, United Auto Workers; Joe Arabie, Lee Forbes, René Lara, Becky Moeller, and Ed Sills, Texas AFL CIO; Terry Briggs, Brotherhood of Locomotive Engineers; Robert Cash, Texas Fair Trade Coalition; Michael Cunningham, Texas State Building and Construction Trades Council; Connie English, Jr., United Transportation Union; Currie Hallford, TPLC CWA; Dwight Harris, Texas AFT; Derrick Osobase, Texas State Employees Union; Kamron Saunders, United Transportation Union)

Against — None

BACKGROUND: Government Code, sec. 2155.074 requires state agencies undergoing procurement to purchase the goods or services providing the best value to the state. In determining the best value, purchase price and whether the goods meet specifications are the most important factors state agencies must consider, among several other factors, such as the quality and reliability of the goods and services.

Government Code, sec. 2155.444 outlines circumstances in which state agencies purchasing goods, including agricultural products, must give preference to goods produced or grown in this state or offered by Texas bidders.

Goods produced or offered by a Texas bidder owned by a disabled military veteran and resident of the state receive first preference when the cost and quality of competing goods are equal among Texas bidders. If goods produced or grown in the state or offered by Texas bidders are not of equal cost and quality to goods produced or grown elsewhere, then

goods produced or grown in other U.S. states receive preference over foreign products of equal cost and quality.

DIGEST:

HB 535 would require state agencies to also give preference to goods manufactured in Texas. The term “manufactured,” with respect to assembled goods, would be defined as “the final assembly, processing, packaging, testing, or other process that adds value, quality, or reliability.”

The same criteria for giving preference to goods produced or grown in the state would apply to goods manufactured in the state. In addition, the bill would require the comptroller’s office and other state agencies acting under the state’s preference criteria to promote the purchase of goods manufactured, produced, or grown in the state.

The bill would take effect September 1, 2013, and would apply only to contracts for goods entered into on or after that date.

SUPPORTERS
SAY:

HB 535 would ensure that Texas dollars were used to procure goods manufactured in Texas whenever possible. Since 1995, the state has shown preference to products produced or grown in the state if they were of equal value to goods produced or grown elsewhere. Similarly, the United States has promoted “Buy America” laws for more than 70 years with respect to government procurement.

In some instances, Texas manufacturing plants have closed due to foreign competition. HB 535 would benefit the state’s manufacturing workforce by adding manufactured goods to those considered by state agencies. When goods manufactured in Texas were purchased by these agencies, it would boost the state’s overall economy.

Those who interpret produced goods to include manufactured goods miss the distinction that “produced” refers to a singular item, whereas “manufactured” refers to multiple components being assembled to make a finished good. Even if produced goods encompass manufactured goods, it would be beneficial to include both in statute.

The bill would result in a preference for buying products made by Texas manufacturers only when possible. The preference would apply only when the Texas goods were of equal value to those from outside the state.

OPPONENTS

The changes proposed in HB 535 are unnecessary. Texas law already

SAY: requires state agencies to purchase goods produced in Texas when they are of equal value to out-of-state goods, and this has been interpreted to include manufactured goods.