~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 18, 2015

**H. 3583**

Introduced by Reps. Clemmons, Simrill, McCoy, Loftis, Atwater, Kirby, Corley, Bernstein, McEachern, Weeks, Johnson, Goldfinch, Kennedy, H.A. Crawford, Rutherford, Whitmire, Douglas, Burns, Clyburn, Erickson, G.R. Smith, Yow, Spires, Chumley, Allison, Hardee, Anderson, Gagnon, Putnam, Nanney, Williams, Limehouse, Duckworth, Norrell, Anthony, Ballentine, Bannister, Bedingfield, Bingham, Clary, Delleney, Felder, Finlay, Funderburk, Gambrell, Hamilton, Hardwick, Hicks, Hiott, Hixon, Huggins, Long, Lowe, Lucas, V.S. Moss, Murphy, Norman, Pitts, Pope, Quinn, Riley, Rivers, Sandifer, G.M. Smith, Stringer, Tallon, Taylor, Thayer, Toole, Wells, Willis, Newton and Forrester

S. Printed 3/18/15--H. [SEC 3/19/15 3:15 PM]

Read the first time February 11, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3583) to amend the Code of Laws of South Carolina, 1976, by adding Article 23 to Chapter 35, Title 11 so as to prohibit the state or a political subdivision of, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 35, Title 11 of the 1976 Code is amended by adding:

“Article 23

Statewide Provisions

Section 11‑35‑5300. (A) A public entity may not enter into a contract with a business to acquire or dispose of supplies, services, information technology, or construction unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in this article.

(B) For purposes of this section:

(1) ‘Boycott’ means to blacklist, divest from, or otherwise refuse to deal with a person or firm when the action is based on race, color, religion, gender, or national origin of the targeted person or entity. ‘Boycott’ does not include:

(a) a decision based on business or economic reasons, or the specific conduct of a targeted person or firm;

(b) a boycott against a public entity of a foreign state when the boycott is applied in a nondiscriminatory manner; and

(c) conduct necessary to comply with applicable law in the business’s home jurisdiction.

(2) ‘Public entity’ means the State, or any political subdivision of the State, including a school district or agency, department, institution, or other public entity of them.

(3) A ‘jurisdiction with whom South Carolina can enjoy open trade’ includes World Trade Organization members and those with which the United States has free trade or other agreements aimed at ensuring open and nondiscriminatory trade relations.

(C) This section does not apply if a business fails to meet the requirements of subsection (A) but offers to provide the goods or services for at least twenty percent less than the lowest certifying business. Also, this section does not apply to contracts with a total potential value of less than ten thousand dollars.

(D) Failure to comply with a provision of this section is not grounds for a protest filed pursuant to Section 11‑35‑4210 or any other preaward protest process appearing in a procurement ordinance adopted by a political subdivision pursuant to Section 11‑35‑50 or 11‑35‑70, or similar law.”

SECTION 2. Section 11‑57‑40 of the 1976 Code, as added by Act 267 of 2014, is amended to read:

“Section 11‑57‑40. This chapter does not apply to a procurement or contract valued at ~~one~~ ten thousand dollars or less.”

SECTION 3. This act takes effect upon approval by the Governor and does not apply to contracts entered into before the effective date of this act. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 23 TO CHAPTER 35, TITLE 11 SO AS TO PROHIBIT THE STATE OR A POLITICAL SUBDIVISION OF THE STATE FROM ACCEPTING A PROPOSAL FROM OR PROCURING GOODS OR SERVICES FROM A BUSINESS WHICH ENGAGES IN THE BOYCOTT OF A PERSON OR AN ENTITY BASED ON RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 35, Title 11 of the 1976 Code is amended by adding:

“Article 23

Statewide Provisions

Section 11‑35‑5300. (A) A public entity may not enter into a contract with a business to acquire or dispose of supplies, services, information technology, or construction unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in this article.

(B) For purposes of this section:

(1) ‘Boycott’ means to blacklist, divest from, or otherwise refuse to deal with a person or firm when the action is based on race, color, religion, or national origin of the targeted person or entity. ‘Boycott’ does not include:

(a) a decision based on business or economic reasons, or the specific conduct of a targeted person or firm;

(b) a boycott against a public entity of a foreign state when the boycott is applied in a nondiscriminatory manner; and

(c) conduct necessary to comply with applicable law in the business’s home jurisdiction.

(2) ‘Public entity’ means the State, or any political subdivision of the State, including a school district or agency, department, institution, or other public entity of them.

(3) A ‘jurisdiction with whom South Carolina can enjoy open trade’ includes World Trade Organization members and those with which the United States has free trade or other agreements aimed at ensuring open and nondiscriminatory trade relations.

(C) This section does not apply if a business fails to meet the requirements of subsection (A) but offers to provide the goods or services for at least twenty percent less than the lowest certifying business. Also, this section does not apply to contracts with a total potential value of less than one hundred thousand dollars.

(D) Failure to comply with a provision of this section is not grounds for a protest filed pursuant to Section 11‑35‑4210 or any other preaward protest process appearing in a procurement ordinance adopted by a political subdivision pursuant to Section 11‑35‑50 or 11‑35‑70, or similar law.”

SECTION 2. This act takes effect upon approval by the Governor and does not apply to contracts entered into before the effective date of this act.

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