

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1267.01 Esther van Mourik x4215

HOUSE BILL 18-1435

HOUSE SPONSORSHIP

Esgar,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PROTECTION OF COLORADO CALL CENTER JOBS,
102 AND, IN CONNECTION THEREWITH, KEEPING COLORADO
103 CONSUMER INFORMATION SAFE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires a business to notify the office of economic development (OED) of any plans to terminate customer service employee positions and employees who are employed by or work on behalf of a call center in those positions in the state and relocate those positions outside of the United States. The bill specifies that a violation of the requirement

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

to notify results in a civil penalty that the state's attorney general may recover.

The bill requires the OED to maintain and make public a list of businesses that have terminated and relocated customer service employee positions outside of the United States. The bill provides a method for a business to remove their name from the list after a certain period of time.

The bill specifies that a public entity may not award or provide a public subsidy to a business that has its name on the list maintained by the OED, but allows a waiver for this limitation in certain specific circumstances.

The bill requires a business to ensure that each customer service employee who communicates with a customer on behalf of the business:

- ! Enables the customer to speak to an employee of the business on whose behalf the call center is communicating with the customer;
- ! Transfers the call to a person in the state if the customer service employee is not in the state; and
- ! Discloses to the customer:
 - ! The state and country where the customer service employee is located;
 - ! The customer service employee's employee number; and
 - ! The name of the customer service employee's employer.

The bill specifies that a public entity must give preference to a business that does not appear on the list of businesses maintained by the OED when awarding a contract for services.

The bill requires all call center services performed for a public entity to be performed in the state by customer service employees employed in the state.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-48.5-125 as
3 follows:

4 **24-48.5-125. Protecting Colorado call center jobs - definitions.**

5 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "BUSINESS" MEANS ANY LAWFUL ACTIVITY PERFORMED BY AN
8 ENTITY, WHETHER OR NOT ENGAGED IN FOR PROFIT, THAT CONTRACTS

1 WITH OR OPERATES A CALL CENTER. "BUSINESS" ALSO MEANS TAXPAYER
2 AS THAT TERM IS USED IN TITLE 39.

3 (b) "CALL CENTER" MEANS A BUSINESS ENTITY OR A DIVISION OF
4 A BUSINESS ENTITY WHOSE PRIMARY PURPOSE INCLUDES INITIATING OR
5 RECEIVING TELEPHONE COMMUNICATIONS ON BEHALF OF A PERSON FOR
6 THE PURPOSE OF INITIATING SALES, INCLUDING MAKING A TELEPHONE
7 SOLICITATION, OR PROVIDING OR RECEIVING INFORMATION IN CONNECTION
8 WITH THE PROVISION OF SERVICES, AND THAT HAS:

9 (I) AT LEAST FIFTY CUSTOMER SERVICE EMPLOYEES LOCATED IN
10 THE STATE, NOT INCLUDING CUSTOMER SERVICE EMPLOYEES WHO WORK
11 LESS THAN TWENTY HOURS PER WEEK; OR

12 (II) AT LEAST FIFTY CUSTOMER SERVICE EMPLOYEES LOCATED IN
13 THE STATE WHO, IN THE AGGREGATE, WORK A TOTAL OF AT LEAST ONE
14 THOUSAND FIVE HUNDRED HOURS PER WEEK.

15 (c) "CUSTOMER" MEANS A RESIDENT OF THE STATE WHO RECEIVES
16 A CALL FROM OR PLACES A CALL TO A CALL CENTER.

17 (d) "CUSTOMER SERVICE EMPLOYEE" MEANS A PERSON EMPLOYED
18 BY OR WORKING ON BEHALF OF A CALL CENTER.

19 (e) "OFFICE" MEANS THE OFFICE OF ECONOMIC DEVELOPMENT
20 CREATED IN SECTION 24-48.5-101.

21 (f) "PUBLIC ENTITY" MEANS THE STATE AND ANY OF ITS
22 DEPARTMENTS, BOARDS, AGENCIES, INSTRUMENTALITIES, AUTHORITIES,
23 AND COMMISSIONS.

24 (g) "PUBLIC SUBSIDY" MEANS A PROGRAM, BENEFIT, OR
25 ASSISTANCE OF ANY TYPE OFFERED BY A PUBLIC ENTITY THAT IS DESIGNED
26 TO STIMULATE THE ECONOMIC DEVELOPMENT OF A CORPORATION,
27 INDUSTRY, OR SECTOR OF THE STATE'S ECONOMY OR TO CREATE OR RETAIN

1 JOBS IN THE STATE. THE TERM INCLUDES GRANTS, LOANS, LOAN
2 GUARANTEES, FEE WAIVERS, LAND PRICE SUBSIDIES, MATCHING FUNDS,
3 TAX REFUNDS, TAX REBATES, TAX ABATEMENTS, INFRASTRUCTURE
4 DEVELOPMENT AND IMPROVEMENTS DESIGNED TO PRINCIPALLY BENEFIT
5 A SINGLE BUSINESS OR DEFINED GROUP OF BUSINESSES, AND ANY BENEFIT
6 ALLOWED IN AN ENTERPRISE ZONE.

7 (2) (a) A BUSINESS SHALL NOTIFY THE OFFICE IF THE BUSINESS
8 PLANS TO:

9 (I) TERMINATE CUSTOMER SERVICE EMPLOYEE POSITIONS IN THE
10 STATE THAT HANDLE AT LEAST FIFTY PERCENT OF TOTAL CUSTOMER
11 SERVICE CALL VOLUME FOR THE BUSINESS, AS MEASURED AGAINST THE
12 PREVIOUS TWELVE MONTHS AVERAGE CUSTOMER SERVICE CALL VOLUME
13 OF THE BUSINESS; AND

14 (II) RELOCATE THE DUTIES OF THOSE POSITIONS TO PERSONS IN
15 ONE OR MORE CALL CENTERS LOCATED OUTSIDE OF THE UNITED STATES.

16 (b) THE BUSINESS SHALL NOTIFY THE OFFICE OF THE INTENT
17 DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION AT LEAST ONE
18 HUNDRED TWENTY DAYS BEFORE THE TERMINATION OR RELOCATION OF
19 THE POSITIONS.

20 (c) A BUSINESS THAT VIOLATES THIS SUBSECTION (2) IS LIABLE TO
21 THE STATE FOR A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED FIVE
22 THOUSAND DOLLARS FOR EACH DAY THAT THE BUSINESS IS IN VIOLATION.

23 (d) THE ATTORNEY GENERAL MAY BRING SUIT TO RECOVER THE
24 CIVIL PENALTY IMPOSED UNDER SUBSECTION (2)(c) OF THIS SECTION.

25 (3) (a) THE OFFICE SHALL MAINTAIN A LIST OF BUSINESSES THAT
26 HAVE TERMINATED AND RELOCATED CUSTOMER SERVICE EMPLOYEE
27 POSITIONS AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

1 (b) THE OFFICE SHALL MAKE THE LIST AVAILABLE TO THE PUBLIC
2 AND SHALL SEMIANNUALLY DISTRIBUTE THE LIST TO ALL PUBLIC ENTITIES
3 AND ANY BETTER BUSINESS BUREAU.

4 (c) EXCEPT AS PROVIDED IN SUBSECTION (3)(d) OF THIS SECTION,
5 A BUSINESS THAT IS ADDED TO THE LIST MAY NOT BE REMOVED FROM THE
6 LIST BEFORE THE FIFTH ANNIVERSARY OF THE DATE THE BUSINESS WAS
7 ADDED TO THE LIST.

8 (d) THE OFFICE SHALL REMOVE A BUSINESS FROM THE LIST IF THE
9 BUSINESS RELOCATES AS MANY CUSTOMER SERVICE EMPLOYEE POSITIONS
10 IN THE STATE AS THE BUSINESS TERMINATED AND RELOCATED WHEN THE
11 BUSINESS WAS ADDED TO THE LIST.

12 (4) (a) EXCEPT AS PROVIDED IN SUBSECTION (4)(b) OF THIS
13 SECTION, A PUBLIC ENTITY MAY NOT AWARD OR PROVIDE A PUBLIC
14 SUBSIDY TO A BUSINESS THAT APPEARS ON THE LIST MAINTAINED UNDER
15 SUBSECTION (3) OF THIS SECTION.

16 (b) (I) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PERMIT
17 THE WITHHOLDING OR DENIAL OF PAYMENTS, COMPENSATION, OR
18 BENEFITS, INCLUDING STATE UNEMPLOYMENT COMPENSATION, DISABILITY
19 PAYMENTS, OR WORKER RETRAINING OR READJUSTMENT FUNDS, TO ANY
20 CUSTOMER SERVICE EMPLOYEES.

21 (II) A PUBLIC ENTITY, AFTER CONSULTING WITH THE OFFICE, MAY
22 AWARD A PUBLIC SUBSIDY IF THE BUSINESS APPLYING FOR THE PUBLIC
23 SUBSIDY PROVIDES DEMONSTRABLE EVIDENCE THAT THE REFUSAL TO
24 GRANT THE SUBSIDY WOULD:

25 (A) RESULT IN SUBSTANTIAL JOB LOSS IN THE STATE; OR

26 (B) HARM THE ENVIRONMENT.

27 (c) A BUSINESS THAT HAS RECEIVED A PUBLIC SUBSIDY AND THAT

1 IS PLACED ON THE LIST MAINTAINED UNDER SUBSECTION (3) OF THIS
2 SECTION AFTER THE BUSINESS WAS AWARDED THE PUBLIC SUBSIDY SHALL
3 REPAY THE FULL AMOUNT OF THE PUBLIC SUBSIDY. THE BUSINESS SHALL
4 REMIT THE REPAYMENT TO THE STATE TREASURER AND THE STATE
5 TREASURER SHALL CREDIT THE AMOUNT TO THE GENERAL FUND.

6 (5) ON THE REQUEST OF A CUSTOMER, A BUSINESS SHALL ENSURE
7 THAT EACH CUSTOMER SERVICE EMPLOYEE WHO COMMUNICATES WITH A
8 CUSTOMER ON BEHALF OF THE BUSINESS:

9 (a) ENABLES THE CUSTOMER TO SPEAK TO AN EMPLOYEE OF THE
10 BUSINESS ON WHOSE BEHALF THE CALL CENTER IS COMMUNICATING WITH
11 THE CUSTOMER;

12 (b) TRANSFERS THE CALL TO A PERSON IN THE STATE IF THE
13 CUSTOMER SERVICE EMPLOYEE IS NOT IN THE STATE; AND

14 (c) DISCLOSES TO THE CUSTOMER:

15 (I) THE STATE AND COUNTRY WHERE THE CUSTOMER SERVICE
16 EMPLOYEE IS LOCATED;

17 (II) THE CUSTOMER SERVICE EMPLOYEE'S EMPLOYEE NUMBER; AND

18 (III) THE NAME OF THE CUSTOMER SERVICE EMPLOYEE'S
19 EMPLOYER.

20 (6) NOTWITHSTANDING ARTICLES 101 TO 112 OF THIS TITLE 24 TO
21 THE CONTRARY, WHEN AWARDING A CONTRACT FOR SERVICES, A PUBLIC
22 ENTITY SHALL GIVE PREFERENCE TO A VENDOR, BIDDER, CONTRACTOR, OR
23 SUBCONTRACTOR THAT DOES NOT APPEAR ON THE LIST MAINTAINED
24 UNDER SUBSECTION (3) OF THIS SECTION.

25 (7) ALL CALL CENTER SERVICES PERFORMED FOR A PUBLIC ENTITY
26 MUST BE PERFORMED IN THE STATE BY CUSTOMER SERVICE EMPLOYEES
27 EMPLOYED IN THE STATE. ANY CALL CENTER SERVICES PERFORMED FOR A

1 PUBLIC ENTITY OUTSIDE OF THE STATE AS OF THE EFFECTIVE DATE OF THIS
2 SUBSECTION (7) MUST BE RELOCATED TO THE STATE WITHIN TWO YEARS
3 FOLLOWING THE EFFECTIVE DATE OF THIS SUBSECTION (7).

4 **SECTION 2. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly (August 8, 2018, if adjournment sine die is on May 9,
8 2018); except that, if a referendum petition is filed pursuant to section 1
9 (3) of article V of the state constitution against this act or an item, section,
10 or part of this act within such period, then the act, item, section, or part
11 will not take effect unless approved by the people at the general election
12 to be held in November 2018 and, in such case, will take effect on the
13 date of the official declaration of the vote thereon by the governor.

14 (2) This act applies to a bid for a contract submitted or an
15 application for a public subsidy filed on or after the applicable effective
16 date of this act.