

INITIATIVE 902

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 902 to the People is a true and correct copy as it was received by this office.

AN ACT Relating to the outsourcing of jobs; adding a new chapter to Title 49 RCW; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Outsourcing" means the act of hiring and/or employing, either directly or via a third party, workers who are not citizens of the United States of America, in a foreign country or countries, by an entity that is nonindigenous to that country or countries, for the purpose of producing a product or service for export to the United States and/or use by or sale to consumers within the United States, usually at a significantly lower pay than what those workers would receive if they were resident citizens of the United States.

(2) "Exporting jobs" means the act of eliminating existing jobs held by United States citizens for the purpose of outsourcing.

(3) "Ethically deficient entity" means any American company, municipality, or corporation that willfully engages in outsourcing and/or exporting jobs.

(4) "Horse's ass" means any chief executive officer of an ethically deficient entity.

NEW SECTION. **Sec. 2.** The people of the state of Washington do hereby denounce any entity that engages in the unethical practice of outsourcing. Not only are local jobs being sacrificed in favor of cheap overseas labor, but, in many instances, the desperation of an impoverished people is being exploited with greater regard being given to quarterly profit margins than to basic human morality.

NEW SECTION. **Sec. 3.** The department of labor and industries is hereby responsible for classifying entities as ethically deficient, removing such classifications, and, in coordination with the State attorney general when applicable, enforcing the provisions set forth in this chapter. Any legal citizen of the state of Washington may submit a request to the department of labor and industries for an entity to be classified as ethically deficient. No fees may be associated with submitting this request. In the request, the submitter must clearly state how this entity in question fits the definition of ethically deficient entity as outlined in this chapter. The department of labor and industries must, within ten business days, notify both the submitter and the entity in question that the request has been received. Such notification must be sent by both phone and United States mail, as well as by electronic means if requested by either party. The entity in question then has ten business days to prepare a written statement, not to exceed five hundred words in length, and send it to the department of labor and industries either in person or via United States mail. If sent via mail, it must be postmarked not more than ten days from the date that the notification was initially received by the entity in question. Upon receipt of the written statement, or upon the eleventh business day after notification was given if no statement has been received, the department of labor and industries will have sixty days to investigate the matter using any and all credible evidence at their disposal. The department of labor and industries may decide to either classify the entity in question as an "ethically deficient entity" or decline the request, in which case no new request may be submitted against that entity for a period of six months from the date that the request was declined. Either party may appeal the decision within five days of the decision to the superior court of Thurston county by petition setting forth the initial request, the statement (if any) given in response by the entity, and the nature of and grounds for the objection or objections to the department of labor and industries' ruling. Upon the filing of the petition on

appeal or at the time to which the hearing may be adjourned by consent of the appellant, the court shall accord first priority to examining the initial request, the statement (if any) from the entity, and the nature of and grounds for the objection or objections to the department of labor and industries' ruling, may hear arguments and consider evidence, and shall, within five days, render its decision. The court may decide either to overturn the initial ruling or uphold it. The decision of the superior court is final. Such appeal shall be heard at no costs to either party. An ethically deficient entity may submit a "Request for Redemption" with the department of labor and industries not less than ninety days from the date that the entity was classified as ethically deficient. The entity may not use this request to dispute the initial classification. Instead, the entity must include a detailed report describing the entity's successful efforts to end the outsourcing and/or exporting of jobs that were the grounds for the classification of the entity as ethically deficient. The request must also include a written, full apology to the people of the state of Washington for conducting itself unethically and request their forgiveness. The department of labor and industries shall then have one hundred twenty days to review the request and investigate the matter thoroughly. The burden of proof that the unethical practices (defined as the act of outsourcing and/or exporting jobs) have stopped falls upon the petitioning entity. The department of labor and industries is responsible for independently verifying that the unethical practices have indeed stopped completely. During this time, written statements and/or testimony may be submitted to the department of labor and industries by any party, such as an employee associated with the entity, a concerned citizen, etc. While the individual is responsible for stating a verifiable name and address, the department of labor and industries must keep that information strictly confidential to avoid fear of retribution. Such statements must be limited to no more than two hundred fifty words, and only one statement may be filed per person. After considering evidence and testimony, the department of labor and industries may either approve or reject the Request for Redemption. If the request is rejected, then another request cannot be made on that entity's behalf for six months unless that entity is a municipality. If the request is approved, then the entity will have the ethically deficient classification removed upon payment of a ten thousand dollar "Redemption Fee." If the entity has a chief executive officer as

determined by the department of labor and industries, then the horse's ass must pay a "De-Assification Fee" of five thousand dollars in addition to the Redemption Fee. Failure to pay either applicable fee within thirty days of the approval will result in the request outcome being switched to rejected. No request to classify the entity as ethically deficient may be filed for a period of six months from the date of the initial ruling of approval. Either the entity or a Washington state citizen or group of citizens may appeal the decision within five days of the decision to the superior court of Thurston county by petition setting forth the initial request, any statements and/or written testimony submitted by the public, and the nature of and grounds for the objection or objections to the department of labor and industries' ruling. Upon the filing of the petition on appeal or at the time to which the hearing may be adjourned by consent of the appellant, the court shall accord first priority to examining the initial request, any statements and/or written testimony submitted by the public, and the nature of and grounds for the objection or objections to the department of labor and industries' ruling, may hear arguments and consider evidence, and shall, within five days, render its decision. The court may decide either to overturn the initial ruling or uphold it. The decision of the superior court is final. Such appeal shall be heard at no costs to either party. All pending requests for classification of ethically deficient and redemption must be made readily available to the public without fee. An updated, publicly available list of all ethically deficient entities must be kept by the department of labor and industries for anyone to view without fee. This list must also be made publicly available on the department's website.

NEW SECTION. **Sec. 4.** A "grace period" of one year from the date that the department of labor and industries initially classified an entity as ethically deficient shall take effect upon classification of an entity as ethically deficient. If the ethically deficient entity has already been previously classified as ethically deficient, then the grace period shall instead be four months. During this period, no penalties as set forth in this chapter may be applied against the ethically deficient entity. If a Request for Redemption is submitted during the grace period, the ethically deficient entity will not be required to include a public apology in the request or ask for forgiveness. If that request as submitted during the grace period is ultimately approved, then the Redemption Fee and

De-Assification Fee will be waived. An ethically deficient entity may request a one-year extension of the grace period to the department of labor and industries not more than thirty days and not less than fifteen days before the expiration of the grace period. This extension may only be requested once, and only if the entity has not been classified as ethically deficient prior to the classification which the current grace period is applicable to. In the request, the entity must include a detailed report demonstrating a good-faith effort to end the unethical practices, outlining a reasonable amount of progress in ending the unethical practices, and detailing why an extension is needed. The entity must also include a non-refundable one thousand dollar "Extension Request Fee." The department of labor and industries will then have fourteen days to review the request. The department of labor and industries must approve the request if all the criteria for the request as outlined in this chapter are met.

NEW SECTION. **Sec. 5.** A "grandfather clause" shall be available to nonmunicipal entities who have been conducting activities before the effective date of this act that would otherwise have qualified them for an ethically deficient status. Any entity covered by the grandfather clause shall not be subject to any of the penalties or pejorative classifications (i.e. "ethically deficient," "horse's ass," etc) outlined in this chapter. Any requests to classify an entity covered under the grandfather clause as ethically deficient shall be automatically rejected. Information about whether or not an entity is currently registered as a preexisting outsourcer and therefore covered by the grandfather clause must be made available by the department of labor and industries to any member of the public without fee. In order for a nonmunicipal entity to be covered under the grandfather clause, the entity must register with the department of labor and industries as a "preexisting outsourcer" prior to January 1st, 2007. The department of labor and industries must approve this registration within thirty days if all the required information has been submitted prior to the January 1st, 2007 deadline, even if the entity has already been classified as ethically deficient. With the registration, the entity must also submit detailed records of what countries they're outsourcing to, approximately how many people who are not American citizens are being employed in these countries, and the approximate average wage paid to these outsourced employees. Deliberately providing false and/or

misleading records is a felony punishable by not more than five years in prison or not more than a two hundred fifty thousand dollar fine, or both. These records must be filed annually, prior to March 1st of the year in order for the grandfather clause to remain in effect, and shall be made available by the department of labor and industries to any member of the public to view without fee. In addition, the entity must pay an annual "outsourcing tax" of two hundred fifty thousand dollars or the following formula (whichever is greater): $T = (N + 10R)\% * (M - W)$, where W is the average outsourcing wage reported for that year, M is the current state minimum wage, N is 70, R is how many times the grandfather clause has been renewed by the state legislature, and T is the total tax paid; i.e. "Tax equals the quantity of N plus ten times R percent times the quantity of the state minimum wage minus the entity's average outsourcing wage." If the entity fails to pay the tax prior to two months after the tax deadline in any given year, it shall be construed as the entity's resignation of its preexisting outsourcer status and its coverage under the grandfather clause shall be permanently revoked. The grandfather clause provision of this chapter shall expire two months prior to the general election on any even-numbered year unless it is renewed for another two years by the state legislature not more than eight months prior to the general election on an even-numbered year. The state legislature cannot renew the grandfather clause provision for any period of time other than two years.

NEW SECTION. **Sec. 6.** Any nonmunicipal entity that is determined to be ethically deficient and is not within its grace period is hereby forbidden from conducting business of any kind within the state of Washington. Upon expiration of a nonmunicipal, ethically deficient entity's grace period, all retail and service locations, corporate headquarters, offices, shipping and processing facilities, call centers, storage facilities, and any other business-related operations within the state of Washington must be immediately liquidated and shut down. Failure to close the afore-mentioned operations within ten business days by any officers of the entity legally responsible for doing so is a felony punishable by not more than five years in prison or not more than a two hundred fifty thousand dollar fine, or both. Any and all property owned by the nonmunicipal, ethically deficient entity must be immediately put up for sale at or below the fair market value of the property, and any and all property rented by the nonmunicipal, ethically deficient

entity must be immediately vacated. Failure to put owned property up for sale and/or vacate rented or leased property within ten business days by any officers of the entity legally responsible for doing so is a felony punishable by not more than five years in prison or not more than a two hundred fifty thousand dollar fine, or both. All operations and activities directly related to the nonmunicipal, ethically deficient entity's business being conducted within the state of Washington must cease immediately. Failure to do so by any officer of the entity is a felony punishable by not more than five years in prison or not more than a two hundred fifty thousand dollar fine, or both. Sale by a third-party (such as a retail store) within the state of Washington of products and/or services provided by an ethically deficient entity is hereby prohibited. Said third-parties will have six months from the date that the ethically deficient entity's grace period ended to cease sale of the product and/or service. Failure to do so will result in a one thousand dollar fine per day, every day until that third-party has ceased sale of the product and/or service provided by the ethically deficient entity. The department of labor and industries is responsible for monitoring compliance and verifying that all applicable operations have been shut down within the time allotted. Any criminal failures on the part of the entity and/or its officers, as outlined in this chapter, must be forwarded to the Washington State attorney general for prosecution.

NEW SECTION. **Sec. 7.** If a municipality (such as a state or local government agency) fails to end the unethical practices and be approved for Redemption within the grace period, the matter will be immediately forwarded to the Washington State attorney general to determine who is legally liable and to prosecute anyone (such as an elected official from that municipality) who is. Such municipal officials shall be subject to felony charges punishable by not more than eight years in prison or not more than a two hundred fifty thousand dollar fine, or both. Any municipality that fails to end the unethical practices and be approved for Redemption shall be fined two hundred fifty dollars per day, every day until that municipality has been approved for Redemption.

NEW SECTION. **Sec. 8.** The people of the state of Washington hold the sincerest hope that other states will follow our example and that companies will realize that it's more profitable to keep their jobs--

and, subsequently, their business-- in this wonderful country that has been so good to them for such a long time. The people of the state of Washington believe that any company that reaps the rewards and benefits of our lucrative economy has an obligation to give something back in return-- namely, jobs.

NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute a new chapter in Title 49 RCW.

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