

Prohibition on Drones and Certain Contracts from Countries of Concern; House Sub. for SB 271

House Sub. for SB 271 prohibits government agencies from purchasing or acquiring drones whose critical components were produced in a country of concern, or whose critical components were produced or owned by a foreign principal.

The bill also prohibits state agencies from entering into a contract or agreement to procure final or finished goods or services from certain foreign principals. [*Note:* This prohibition applies only to state agencies, not all governmental agencies, as it applies to the drone portion of the bill.]

Drone Procurement and Usage

The bill prohibits government agencies from purchasing and acquiring drones whose critical components were produced in a country of concern, or whose critical components were produced or owned by any foreign principal. The prohibition does not apply to any drone or replacement component contract or agreement entered into prior to July 1, 2024.

Component Replacement

When a government agency determines a critical component must be replaced, the agency may use any replacement component acquired prior to July 1, 2027, but no new replacement component could be acquired from any foreign principal unless:

- There is no other reasonable means to acquire such critical components or of addressing the needs of the agency necessitating the purchase;
- An agreement for such acquisition is approved by the Secretary of Administration after consulting with the Adjutant General; and
- Failing to acquire such components or otherwise address the agency's need poses a greater threat to state safety and security than the risk posed by acquiring the component.

Definitions

Drone

The bill defines “drone” as an unmanned aircraft that is controlled remotely by a human operator or that operates autonomously through computer software or other programming.

Critical Components

The bill defines “critical components” as a component or subcomponent that is a distinct and serviceable article and the primary component of an identifiable process or subprocess necessary to the recording, storing, or transmitting of data or any other form of information.

Country of Concern

The bill defines “country of concern” as meaning the following countries:

- People’s Republic of China, including the Hong Kong Special Administrative Region;
- Republic of Cuba;
- Islamic Republic of Iran;
- Democratic People’s Republic of Korea (North Korea);
- Russian Federation; and
- Bolivarian Republic of Venezuela.

The bill excludes the Republic of China (Taiwan) from the “countries of concern” definition.

Foreign Principal

The bill defines “foreign principal” to mean:

- The government or any official of the government of a country of concern;
- Any political party or subdivision, or any member of a political party of a country of concern;
- Any corporation, partnership, association, organization, or other combination of persons organized under the laws of or having its principal place of business in a country of concern. The definition also includes any subsidiary owned or wholly controlled by any such entity;
- Any agent of or any entity otherwise under the control of a country of concern;
- Any individual whose residence is in a country of concern and who is not a citizen or lawful permanent resident of the United States; or
- Any individual, entity, or combination described above that has a controlling interest in any company formed for the purpose of manufacturing, distributing,

transporting, or selling critical components for drones and related services and equipment.

Governmental Agency

The bill defines “governmental agency” as the State or any political or taxing subdivision of the State, or any related office, agency, or instrumentality.

State-level Agency

The bill defines “state-level agency” as any department, authority, bureau, division, office, or other governmental agency of the State.

Procurement of Goods and Services

The bill prohibits any state-level agency from entering into a contract or agreement to procure final or finished goods or services from a foreign principal except as described below.

The bill permits a state agency to enter into a contract or agreement to procure final or finished goods or services from a foreign principal if such foreign principal:

- Previously received a determination that there are no unresolved national security concerns and action under 50 USC § 4565, as in effect on July 1, 2024, has concluded with respect to a covered transaction, provided that such foreign principal has not undergone a change in control constituting a covered control transaction, since such determination to conclude action was made; or
- Has a national security agreement in effect on July 1, 2024, with CFIUS, or the U.S. Department of Defense, under 50 USC § 4565, as in effect on July 1, 2024, and maintains such national security agreement.

The bill specifies this prohibition does not apply to any contract or agreement entered into prior to July 1, 2024.