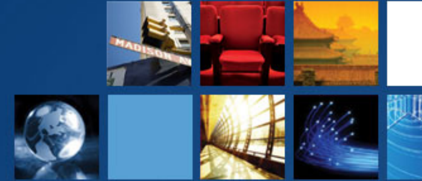

Does Proposed Outsourcing Accountability Act Actually Create Accountability for Outsourcing?

February 10, 2012 By Steve Semerdjian

Rep. Gary Peters (D-Mich.) introduced legislation that would require U.S. public companies with annual gross revenues of $1 billion or more to disclose the number of U.S and overseas workers they employ.

Public companies currently must report total employment figures in annual reports filed with the Securities and Exchange Commission. The Outsourcing Accountability Act of 2012 (H.R. 3875), co-sponsored by Reps. Tim Bishop (D-N.Y.) and Rep. Jerry McNerney (R-Calif.), would amend the Securities Exchange Act of 1934 to require companies to report annually, to both the SEC and shareholders, the total number of their employees (and of each of their consolidated subsidiaries) "physically working in and domiciled in any country other than the United States", broken down by country, as well as the percentage increase or decrease in such numbers from the prior reporting year. The act would also require similar reporting with respect to employees domiciled in the United States.

In addition to "smaller" companies – those with less than $1 billion in annual gross revenue – the bill also exempts "newer public companies" from reporting for the first five years after they are first required to file reports with the SEC.

While, according to a press release on Rep. Peters' website, the bill "would give consumers and investors the information they need to support American jobs and hold outsourcers accountable," the bill appears to create minimal accountability for outsourcing, since most traditional outsourcings involve the transfer of the outsourced activities from the employees of the company to the employees of the outsourcer. As a result, the reporting requirements of the bill would not accurately capture employee reductions due to traditional outsourcings.

What these reporting requirements may indicate is whether a company is moving employee activities that were once performed in the United States to its employees working for affiliates or subsidiaries of the company located in foreign jurisdictions (otherwise known as a captive outsourcing). Without some nexus between the employee reductions in the United States and the employee increases in these foreign jurisdictions, however, whether the cause of these reductions/increases is in any way connected to a captive outsourcing is difficult to determine.

H.R. 3875 is not the first bill to implement disclosure requirements to attempt to curb offshore outsourcing. The U.S. Call Center and Consumer Protection Act (click here to read our blog post on this legislation) would not only require call center workers to disclose their physical location at the request of callers, but would also require the companies to report the relocation of call centers outside the U.S to the Department of Labor.

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