



Rep. Jay Hoffman

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LRB100 03805 HLH 22577 a

1 AMENDMENT TO HOUSE BILL 138

2 AMENDMENT NO. _____. Amend House Bill 138 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Procurement of Domestic Products Act is
5 amended by changing Sections 5, 10, and 25 as follows:

6 (30 ILCS 517/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Component" and "cost of components" have the meanings
9 given to those terms in the federal Buy American Act of 1933.

10 "Manufactured in Illinois" means: (1) in the case of
11 products that are not assembled articles, materials, or
12 supplies, that the product is mined or produced in Illinois;
13 (2) in the case of assembled articles, materials, or supplies,
14 that design, final assembly, processing, packaging, testing,
15 or other process that adds value, quality, or reliability
16 occurs in Illinois and the cost of components produced in

1 Illinois exceeds 50% of the cost of all of the components; or
2 (3) that the product is a commercially available off-the-shelf
3 item.

4 "Manufactured in the United States" means: (1) in the case
5 of products that are not assembled articles, materials, or
6 supplies, that the product is mined or produced in the United
7 States; (2), in the case of assembled articles, materials, or
8 supplies, that design, final assembly, processing, packaging,
9 testing, or other process that adds value, quality, or
10 reliability occurs in the United States and the cost of
11 domestic components exceeds 50% of the cost of all of the
12 components; or (3) that the product is a commercially available
13 off-the-shelf item.

14 "Procured products" means assembled articles, materials,
15 or supplies purchased by a State agency.

16 "Purchasing agency" means a State agency.

17 "State agency" means each agency, department, authority,
18 board, or commission of the executive branch of State
19 government, including each university, whether created by
20 statute or by executive order of the Governor.

21 "United States" means the United States and any place
22 subject to the jurisdiction of the United States.

23 (Source: P.A. 98-463, eff. 8-16-13.)

24 (30 ILCS 517/10)

25 Sec. 10. Domestic ~~United States~~ products.

1 (a) Each purchasing agency making purchases of procured
2 products shall promote the purchase of and give preference to
3 manufactured articles, materials, and supplies that have been
4 manufactured in Illinois ~~the United States~~. Procured products
5 manufactured in Illinois ~~the United States~~ shall be specified
6 and purchased unless the purchasing agency determines that any
7 of the following applies:

8 (1) The procured products are not manufactured in
9 Illinois ~~the United States~~ in reasonably available
10 quantities.

11 (2) The price of the procured products manufactured in
12 Illinois ~~the United States~~ exceeds ~~by an unreasonable~~
13 ~~amount~~ the price of available and comparable procured
14 products manufactured outside of Illinois ~~the United~~
15 ~~States~~ by 12% or more. To be eligible for an exemption
16 under this paragraph (2), the purchasing agency must first
17 obtain a written waiver from the chief procurement officer.

18 (3) The quality of the procured products manufactured
19 in Illinois ~~the United States~~ is substantially less than
20 the quality of the comparably priced, available, and
21 comparable procured products manufactured outside of
22 Illinois ~~the United States~~.

23 (4) The purchase of the procured products manufactured
24 outside of Illinois ~~the United States~~ better serves the
25 public interest by helping to protect or save life,
26 property, or the environment.

1 (5) The purchase of the procured products is made in
2 conjunction with contracts or offerings of
3 telecommunications, fire suppression, security systems,
4 communications services, Internet services, or information
5 services.

6 (6) The purchase is of pharmaceutical products, drugs,
7 biologics, vaccines, medical devices used to provide
8 medical and health care or treat disease or used in medical
9 or research diagnostic tests, and medical nutritionals
10 regulated by the Food and Drug Administration under the
11 federal Food, Drug and Cosmetic Act.

12 (b) If the purchasing agency determines that any of
13 paragraphs (1) through (4) of subsection (a) applies to a
14 procured product, then, with respect to that procurement, the
15 purchasing agency shall give preference to manufactured
16 articles, materials, and supplies that have been manufactured
17 in the United States. In that case, procured products
18 manufactured in the United States shall be specified and
19 purchased unless the purchasing agency determines that any of
20 the following applies:

21 (1) The procured products are not manufactured in the
22 United States in reasonably available quantities.

23 (2) The price of the procured products manufactured in
24 the United States exceeds the price of available and
25 comparable procured products manufactured outside the
26 United States by 12% or more. To be eligible for an

1 exemption under this paragraph (2), the purchasing agency
2 must first obtain a written waiver from the chief
3 procurement officer.

4 (3) The quality of the procured products manufactured
5 in the United States is substantially less than the quality
6 of the comparably priced, available, and comparable
7 procured products manufactured outside the United States.

8 (4) The purchase of the procured products manufactured
9 outside the United States better serves the public interest
10 by helping to protect or save life, property, or the
11 environment.

12 (5) The purchase of the procured products is made in
13 conjunction with contracts or offerings of
14 telecommunications, fire suppression, security systems,
15 communications services, Internet services, or information
16 services.

17 (6) The purchase is of pharmaceutical products, drugs,
18 biologics, vaccines, medical devices used to provide
19 medical and health care or treat disease or used in medical
20 or research diagnostic tests, and medical nutritionals
21 regulated by the Food and Drug Administration under the
22 federal Food, Drug and Cosmetic Act.

23 (c) In determining the price of procured products for
24 purposes of this Section, consideration shall be given to the
25 life-cycle cost, including maintenance and repair of those
26 procured products.

1 (Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

2 (30 ILCS 517/25)

3 Sec. 25. Penalties. If a contractor is awarded a contract
4 through the use of a preference under this Act and knowingly
5 supplies procured products under that contract that are not
6 manufactured in Illinois or the United States, as applicable,
7 then (i) the contractor is barred from obtaining any State
8 contract for a period of 5 years after the violation is
9 discovered by the purchasing agency, (ii) the purchasing agency
10 may void the contract, and (iii) the purchasing agency may
11 recover damages in a civil action in an amount 3 times the
12 value of the preference.

13 (Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law."