



Rep. Jay Hoffman

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1 AMENDMENT TO HOUSE BILL 3820

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3820 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by  
5 adding Section 45-105 as follows:

6 (30 ILCS 500/45-105 new)

7 Sec. 45-105. Bid preference for Illinois businesses.

8 (a) For the purposes of this Section:

9 "Illinois business" means a contractor headquartered in  
10 Illinois providing construction or construction-related  
11 professional services for Illinois-based projects that: (i)  
12 conducts meaningful day-to-day business operations at a  
13 facility in Illinois and that facility is the place of  
14 employment for the majority of its regular, full-time  
15 workforce; (ii) holds all appropriate State licenses; and  
16 (iii) is subject to applicable State taxes. To qualify as an

1 "Illinois business", that business must be transacting  
2 construction and construction-related professional services  
3 for Illinois-based projects when any bid for a public contract  
4 is first advertised or announced. An Illinois business does  
5 not include any subcontractors.

6 "Illinois-based project" means an individual project of  
7 construction and other construction-related services for a  
8 construction agency that will result in the conduct of  
9 business within the State or the employment of individuals  
10 within the State.

11 (b) It is hereby declared to be the public policy of the  
12 State of Illinois to promote the economy of Illinois through  
13 the use of Illinois businesses for all State construction  
14 contracts.

15 (c) Construction agencies procuring construction and  
16 construction-related professional services shall make  
17 reasonable efforts to contract with Illinois businesses.

18 (d) Beginning in 2022, each construction agency shall  
19 submit a report to the Governor and the General Assembly by  
20 September 1 of each year that identifies the Illinois  
21 businesses procured by the construction agency, the primary  
22 location of the construction project, the percentage of the  
23 construction agency's utilization of Illinois businesses on  
24 the project as a whole, and the actions that the construction  
25 agency has undertaken to increase the use of Illinois  
26 businesses.

1       (e) In procuring construction and construction-related  
2 professional services for projects with a total construction  
3 cost valued at greater than \$100,000, construction agencies  
4 shall provide bid preference to a responsible bidder that  
5 meets the definition of an Illinois business as provided in  
6 this Section. The construction agency shall allocate to any  
7 responsible bidder that is an Illinois business a bid  
8 preference of 4% of the contract base bid.

9       (f) This Section does not apply to any contract for any  
10 project for which federal funds are available for expenditure  
11 when its provisions may be in conflict with federal law or  
12 federal regulation.

13       Section 10. The Procurement of Domestic Products Act is  
14 amended by changing Sections 5, 10, and 25 and by adding  
15 Sections 3 and 35 as follows:

16       (30 ILCS 517/3 new)

17       Sec. 3. Policy. It is the policy of Illinois that the State  
18 government should, consistent with applicable law, use terms  
19 and conditions of State financial assistance awards and State  
20 procurements to maximize the use of goods, products, and  
21 materials produced in, and services offered in, Illinois.

22       (30 ILCS 517/5)

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

1       "Manufactured in Illinois" means, in the case of assembled  
2 articles, materials, or supplies, that design, final assembly,  
3 processing, packaging, testing, or other process that adds  
4 value, quality, or reliability occurs in Illinois.

5       "Manufactured in the United States" means, in the case of  
6 assembled articles, materials, or supplies, that design, final  
7 assembly, processing, packaging, testing, or other process  
8 that adds value, quality, or reliability occurs in the United  
9 States.

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

12       "Purchasing agency" has the same meaning as provided under  
13 Section 1-15.70 of the Illinois Procurement Code ~~means a State~~  
14 ~~agency.~~

15       "State agency" has the same meaning as provided under  
16 Section 1-15.100 of the Illinois Procurement Code ~~means each~~  
17 ~~agency, department, authority, board, or commission of the~~  
18 ~~executive branch of State government, including each~~  
19 ~~university, whether created by statute or by executive order~~  
20 ~~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 the United States. Procured products  
5 manufactured in the United States shall be specified and  
6 purchased unless the purchasing agency determines that any of  
7 the following applies:

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

10          (2) The price of the procured products manufactured in  
11 the United States exceeds ~~by an unreasonable amount~~ the  
12 price of available and comparable procured products  
13 manufactured outside of the United States by 12% or more.

14          (3) The quality of the procured products manufactured  
15 in the United States is substantially less than the  
16 quality of the comparably priced, available, and  
17 comparable procured products manufactured outside of the  
18 United States.

19          (4) The purchase of the procured products manufactured  
20 outside of the United States better serves the public  
21 interest by helping to protect or save life, property, or  
22 the environment.

23          (5) The purchase of the procured products is made in  
24 conjunction with contracts or offerings of  
25 telecommunications, fire suppression, security systems,  
26 communications services, Internet services, or information

1 services.

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

8 (7) The purchase is an emergency purchase authorized  
9 under Section 20-30 of the Illinois Procurement Code.

10 (8) The purchase is a sole source or sole economically  
11 feasible source purchase authorized under Section 20-25 of  
12 the Illinois Procurement Code.

13 (b) If there is a tie between 2 bidders or offerors who  
14 have certified that they will provide products manufactured in  
15 the United States, the bidder or offeror that certifies it  
16 will provide products manufactured in Illinois shall be given  
17 preference.

18 (c) In determining the price of procured products for  
19 purposes of this Section, consideration shall be given to the  
20 life-cycle cost, including maintenance and repair of those  
21 procured products.

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

23 (30 ILCS 517/25)

24 Sec. 25. Penalties. If a contractor is awarded a contract  
25 through the use of a preference under this Act and knowingly

1 supplies procured products under that contract that are not  
2 manufactured in Illinois or the United States, as applicable,  
3 then (i) the contractor is barred from obtaining any State  
4 contract for a period of 5 years after the violation is  
5 discovered by the purchasing agency, (ii) the purchasing  
6 agency may void the contract, and (iii) the purchasing agency  
7 may recover damages in a civil action in an amount 3 times the  
8 value of the preference.

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

10 (30 ILCS 517/35 new)

11 Sec. 35. Compliance reports. Beginning within 180 days  
12 after the effective date of this amendatory Act of the 102nd  
13 General Assembly, and annually thereafter, each purchasing  
14 agency shall submit to the chief procurement officer a report  
15 on: (i) the purchasing agency's compliance with the Act,  
16 including details on any incidents of noncompliance; (ii) the  
17 purchasing agency's analysis of goods, products, materials,  
18 and services not subject to the Act, including details of any  
19 procured products purchased under an exception listed in  
20 subsection (a) of Section 10; and (iii) any recommendations  
21 for how to further effectuate the policy set forth in this Act.

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law."