



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB3592

Introduced 2/24/2005, by Rep. Lou Lang

#### SYNOPSIS AS INTRODUCED:

30 ILCS 517/5  
30 ILCS 517/10  
30 ILCS 517/15  
30 ILCS 517/25  
30 ILCS 517/30

Amends the Procurement of Domestic Products Act. Redefines "manufactured in the United States" to include design, processing, packaging, testing, and other processes that add value, quality, or reliability. Permits an exemption from the Act's preference if procurement of the product manufactured outside the United States better serves the public interest by protecting or saving life, property, or the environment (now, if procurement of the domestic product is not in the public interest). Creates an exemption if the procurement is made in conjunction with contracts or offerings of fire suppression, security systems, and certain information services. Creates an exemption if the procurement is for certain medical or health care devices. Conditions penalties for a contractor's violation upon failure to cure a defect after notice, a reasonable opportunity to cure the defect, and establishment of the violation in judicial proceedings. Makes other changes.

LRB094 08706 JAM 38918 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Procurement of Domestic Products Act is  
5 amended by changing Sections 5, 10, 15, 25, and 30 as follows:

6 (30 ILCS 517/5)

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

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

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

15 "Purchasing agency" means a State agency.

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

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

22 (Source: P.A. 93-954, eff. 1-1-05.)

23 (30 ILCS 517/10)

24 Sec. 10. United States products. Each purchasing agency  
25 making purchases of procured products ~~manufactured articles,~~  
26 ~~materials, and supplies~~ shall promote the purchase of and give  
27 preference to manufactured articles, materials, and supplies  
28 that have been manufactured in the United States. Procured  
29 products ~~Manufactured articles, materials, and supplies~~  
30 manufactured in the United States shall be specified and  
31 purchased unless the purchasing agency determines that any of

1 the following applies:

2 (1) The procured products ~~manufactured articles,~~  
3 ~~materials, and supplies~~ are not manufactured in the United  
4 States in reasonably available quantities.

5 (2) The price of the procured products ~~manufactured~~  
6 ~~articles, materials, and supplies~~ manufactured in the  
7 United States exceeds by an unreasonable amount the price  
8 of available and comparable procured products ~~manufactured~~  
9 ~~articles, materials, and supplies~~ manufactured outside the  
10 United States.

11 (3) The quality of the procured products ~~manufactured~~  
12 ~~articles, materials, and supplies~~ manufactured in the  
13 United States is substantially less than the quality of the  
14 comparably priced, available, and comparable procured  
15 products ~~manufactured articles, materials, and supplies~~  
16 manufactured outside the United States.

17 (4) The purchase of the procured products ~~manufactured~~  
18 ~~articles, materials, and supplies~~ manufactured outside in  
19 the United States better serves ~~is not in~~ the public  
20 interest by helping to protect or save life, property, or  
21 the environment.

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

27 (6) The purchase is of pharmaceutical products, drugs,  
28 biologics, vaccines, medical devices used to provide  
29 medical and health care or treat disease or used in medical  
30 or research diagnostic tests, and medical nutritionals  
31 regulated by the Food and Drug Administration under the  
32 federal Food, Drug and Cosmetic Act.

33 In determining the price of procured products ~~manufactured~~  
34 ~~articles, materials, and supplies~~ for purposes of this Section,  
35 consideration shall be given to the life-cycle cost, including  
36 maintenance and repair of those procured products ~~manufactured~~

1 ~~articles, materials, and supplies.~~

2 (Source: P.A. 93-954, eff. 1-1-05.)

3 (30 ILCS 517/15)

4 Sec. 15. Contracts; prequalification.

5 (a) Each contract awarded by a purchasing agency on or  
6 after the effective date of this Act through the use of the  
7 preference required under Section 10 shall contain the  
8 contractor's certification that procured products ~~manufactured~~  
9 ~~articles, materials, and supplies~~ provided pursuant to the  
10 contract or a subcontract shall be manufactured in the United  
11 States.

12 (b) Chief procurement officers, as provided in Section  
13 20-45 of the Illinois Procurement Code, and the Capital  
14 Development Board, as provided in Section 30-20 of the Illinois  
15 Procurement Code, must promulgate rules for prequalification  
16 of suppliers and contractors under this Section.

17 (Source: P.A. 93-954, eff. 1-1-05.)

18 (30 ILCS 517/25)

19 Sec. 25. Penalties. If a contractor is awarded a contract  
20 through the use of a preference under this Act and knowingly  
21 supplies procured products ~~manufactured articles, materials,~~  
22 ~~or supplies~~ under that contract that are not manufactured in  
23 the United States as defined in Section 5 of this Act, and (1)  
24 the contractor does not timely cure the violation after being  
25 provided written notice and reasonable opportunity to cure by  
26 the purchasing agency that contracted for the product and (2)  
27 the violation is established by the purchasing agency in  
28 judicial proceedings subject to appeal, then (i) the contractor  
29 may be ~~is~~ barred from obtaining any State contract for a period  
30 of 5 years after the violation is discovered by the purchasing  
31 agency, (ii) the purchasing agency may void the contract, and  
32 (iii) the purchasing agency may recover damages in a civil  
33 action in an amount 3 times the value of the preference.

34 (Source: P.A. 93-954, eff. 1-1-05.)

1 (30 ILCS 517/30)

2 Sec. 30. Capital Development Board; exemption. The Capital  
3 Development Board (CDB) is exempt from the requirements of this  
4 Act with respect to a specific project if (i) CDB determines  
5 that the project is too complex for the 5 major construction  
6 building trades to identify the numerous individual procured  
7 products ~~articles, materials, and supplies~~ required for the  
8 project or (ii) CDB determines that procured products ~~the~~  
9 ~~articles, materials, and supplies~~ required for the project are  
10 too numerous or complex to be able to efficiently assess the  
11 sites where manufactured.

12 (Source: P.A. 93-954, eff. 1-1-05.)