

[First Reprint]

SENATE, No. 853

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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Senators Greenstein, Singleton, Turner, Pou, Assemblymen Armato, Mazzeo, Assemblywomen Jasey, Murphy, Assemblyman Tully, Assemblywoman Swain, Assemblyman Calabrese and Assemblywoman McKnight

SYNOPSIS

“New Jersey Buy American Act”; requires certain State agency highway and bridge construction contracts to include iron and steel products made in U.S.

CURRENT VERSION OF TEXT

As reported by the Senate State Government, Wagering, Tourism & Historic Preservation Committee on March 5, 2020, with amendments.

(Sponsorship Updated As Of: 3/25/2021)

1 AN ACT concerning certain highway and bridge contracts and
2 supplementing Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “New Jersey
8 Buy American Act.”

9

10 2. As used in P.L. , c. (C.) (pending before the
11 Legislature as this bill):

12 “Permanently incorporated” means an iron or steel product that
13 is required to remain in place at the completion of the surface
14 highway or bridge contract, in a fixed location, affixed to the
15 surface highway or bridge to which it was incorporated. Iron and
16 steel products that are capable of being moved from one location to
17 another shall not be considered permanently incorporated into a
18 surface highway or bridge.

19 "State contracting agency" or "agency" means any of the
20 principal departments in the Executive Branch of State
21 Government, any division, board, bureau, office, commission, or
22 other instrumentality created by a principal department, and any
23 independent State authority.

24 “Surface highway or bridge contract” ¹means¹ a contract entered
25 into by a State contracting agency involving the construction,
26 reconstruction, alteration, repair, maintenance, or improvement of
27 any surface highway or bridge under the jurisdiction or control of
28 that agency.

29

30 3. Notwithstanding the provisions of any law, rule, regulation,
31 or order to the contrary, any surface highway or bridge contract
32 over \$1 million in value and made and awarded by a State
33 contracting agency, shall contain a provision requiring that any iron
34 or steel product used or supplied in the performance of the surface
35 highway or bridge contract, or any subcontract thereto, and
36 permanently incorporated into the surface highway or bridge, shall
37 be produced or made, in whole, or in substantial part as determined
38 by the State contracting agency, in the United States, its territories,
39 or possessions. In the case of a structural iron or structural steel
40 product, all manufacturing shall take place in the United States,
41 from the initial melting stage through the application of coatings,
42 except metallurgical processes involving the refinement of steel
43 additives.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SSG committee amendments adopted March 5, 2020.

1 4. The provisions of P.L. , c. (C.) (pending before the
2 Legislature as this bill) shall not apply to a surface highway or
3 bridge contract if the head of a State contracting agency
4 constructing a surface highway or bridge, in the head of the
5 agency's sole discretion, determines that:
6 a. complying with the provisions of P.L. , c. (C.)
7 (pending before the Legislature as this bill):
8 (1) would not be in the public interest; or
9 (2) would result in the loss or reduction of federal funding for
10 the surface highway or bridge contract, or the ability to obtain that
11 federal funding would be limited or jeopardized by the agency's
12 compliance with P.L. , c. (C.) (pending before the
13 Legislature as this bill);
14 b. there is an immediate or emergency need existing for the
15 structural iron or structural steel;
16 c. the structural iron or structural steel is not manufactured in
17 the United States in sufficient and reasonably available quantities or
18 of satisfactory quality or design to meet the State contracting
19 agency's requirements;
20 d. obtaining the iron or steel product in the United States would
21 increase the cost of the contract by an unreasonable amount;
22 e. the iron or steel is necessary for the operation of or repairs
23 of critical infrastructure that is necessary to avoid a delay in the
24 delivery of critical services that could compromise the public
25 welfare;
26 f. a reciprocal trade agreement or treaty has been negotiated by
27 the State or by the United States government on behalf of or
28 including this State with a foreign nation or government providing
29 for nondiscriminatory governmental procurement practices or
30 policies with that foreign nation or government; or
31 g. the design and environmental studies for the surface
32 highway or bridge project have commenced prior to the effective
33 date of P.L. , c. (C.) (pending before the Legislature as this
34 bill).
35
36 5. Nothing in P.L. , c. (C.) (pending before the
37 Legislature as this bill) is intended to contravene any existing
38 treaties, laws, trade agreements, or regulations of the United States
39 or subsequent trade agreements entered into between any foreign
40 countries and this State or the United States. Nothing in P.L. ,
41 c. (C.) (pending before the Legislature as this bill) shall be
42 interpreted to require a contractor performing a surface highway or
43 bridge contract to certify that the iron or steel product used in a
44 surface road or bridge pursuant to P.L. , c. (C.) (pending
45 before the Legislature as this bill) is made in whole, or in
46 substantial part, in the United States.

S853 [1R] SWEENEY, BEACH

1 6. Any State contracting agency subject to the provisions of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 may establish rules and regulations, pursuant to the "Administrative
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary
5 to implement the provisions of P.L. , c. (C.) (pending
6 before the Legislature as this bill).

7
8 7. This act shall take effect immediately but shall not apply to
9 any surface highway or bridge contract that has been previously
10 awarded, or has pending bids or pending requests for proposals
11 issued, as of the effective date of this act.