SENATE STATE GOVERNMENT, WAGERING, TOURISM & HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 853

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2020

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably and with committee amendments Senate Bill No. 853.

As amended by the committee, this bill, designated as the "New Jersey Buy American Act," requires all contracts over $1 million in value and made and awarded by a "State contracting agency," as that term is defined in the bill, for the construction, reconstruction, alteration, repair, maintenance, or improvement of any surface highway or bridge, to contain a provision that any iron or steel product used or supplied in the performance of the contract, or any subcontract thereto, and permanently incorporated into a surface highway or bridge, is to be produced or made in whole or substantial part in the United States, its territories, or possessions.

The bill's provisions would not apply to a surface highway or bridge contract if the head of the State contracting agency, in that person's sole discretion, determines that:

(1) complying with the provisions of the bill would not be in the public interest, or would result in the loss or reduction of federal funding for the surface highway or bridge contract, or the ability to obtain that federal funding would be limited or jeopardized by the agency's compliance with the bill;

(2) there is an immediate or emergency need existing for the structural iron or structural steel;

(3) the structural iron or structural steel is not manufactured in the United States in sufficient and reasonably available quantities or of satisfactory quality or design to meet the State contracting agency's requirements;

(4) obtaining the iron or steel product in the United States would increase the cost of the contract by an unreasonable amount;

(5) the iron or steel is necessary for the operation of or repairs of critical infrastructure that is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare;

(6) a reciprocal trade agreement or treaty has been negotiated by the State or by the United States government on behalf of or including

this State with a foreign nation or government providing for nondiscriminatory governmental procurement practices or policies with that foreign nation or government; or

(7) the design and environmental studies for the surface highway or bridge project have commenced prior to the effective date of the bill.

The bill's provisions are not intended to contravene any existing treaties, laws, trade agreements, or regulations of the United States or subsequent trade agreements entered into between any foreign countries and this State or the United States. Further, nothing in the bill is to be interpreted to require a contractor performing a surface highway or bridge contract to certify that the iron or steel product used in a surface road or bridge is made in whole, or in substantial part, in the United States.

COMMITTEE AMENDMENTS

The committee amended the bill to make a technical amendment to insert the word "means," which was omitted in the definition of "surface highway or bridge contract."