



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1723

Introduced 2/25/2005, by Sen. James F. Clayborne, Jr.

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.

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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.)