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No

NEWSPAPER ARTICLES:

No

RH/CL

§§1-6
C.52:33-4.1 to
52:33-4.6
§7
Note

P.L. 2021, CHAPTER 119, *approved June 24, 2021*
Senate, No. 853 (*Second Reprint*)

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 ²[over \$1 million in value and]² 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,
37 ²including miscellaneous components, as determined pursuant to

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.

²Senate amendments adopted in accordance with Governor's recommendations June 3, 2021.

1 regulations adopted by the State contracting agency, such as nuts
2 and bolts and iron and steel that is a component of other items such
3 as reinforced steel within precast concrete items,² shall be produced
4 or made, in whole, or in substantial part as determined by the State
5 contracting agency, in the United States ²[, its territories, or
6 possessions]² . In the case of a structural iron or structural steel
7 product, all manufacturing shall take place in the United States,
8 from the initial melting stage through the application of coatings,
9 except metallurgical processes involving the refinement of steel
10 additives.

11

12 4. The provisions of P.L. , c. (C.) (pending before the
13 Legislature as this bill) shall not apply to a surface highway or
14 bridge contract if the head of a State contracting agency
15 constructing a surface highway or bridge, in the head of the
16 agency's sole discretion, determines that:

17 a. complying with the provisions of P.L. , c. (C.)
18 (pending before the Legislature as this bill):

19 (1) would not be in the public interest; or

20 (2) would result in the loss or reduction of federal funding for
21 the surface highway or bridge contract, or the ability to obtain that
22 federal funding would be limited or jeopardized by the agency's
23 compliance with P.L. , c. (C.) (pending before the
24 Legislature as this bill);

25 b. there is an immediate or emergency need existing for the
26 structural iron or structural steel;

27 c. the structural iron or structural steel is not manufactured in
28 the United States in sufficient and reasonably available quantities or
29 of satisfactory quality or design to meet the State contracting
30 agency's requirements;

31 d. obtaining the iron or steel product in the United States would
32 increase the cost of the ²overall construction project² contract by
33 ²[an unreasonable amount] more than 25 percent²;

34 e. the iron or steel is necessary for the operation of or repairs
35 of critical infrastructure that is necessary to avoid a delay in the
36 delivery of critical services that could compromise the public
37 welfare;

38 f. a reciprocal trade agreement or treaty has been negotiated by
39 the State or by the United States government on behalf of or
40 including this State with a foreign nation or government providing
41 for nondiscriminatory governmental procurement practices or
42 policies with that foreign nation or government; or

43 g. the design and environmental studies for the surface
44 highway or bridge project have commenced prior to the effective
45 date of P.L. , c. (C.) (pending before the Legislature as this
46 bill).

1 5. Nothing in P.L. , c. (C.) (pending before the
2 Legislature as this bill) is intended to contravene any existing
3 treaties, laws, trade agreements, or regulations of the United States
4 or subsequent trade agreements entered into between any foreign
5 countries and this State or the United States. ²【Nothing in P.L. ,
6 c. (C.) (pending before the Legislature as this bill) shall be
7 interpreted to require a contractor performing a surface highway or
8 bridge contract to certify that the iron or steel product used in a
9 surface road or bridge pursuant to P.L. , c. (C.) (pending
10 before the Legislature as this bill) is made in whole, or in
11 substantial part, in the United States.】²

12

13 6. ²【Any】 Notwithstanding the provisions of the
14 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
15 seq.), to the contrary, any² State contracting agency subject to the
16 provisions of P.L. , c. (C.) (pending before the Legislature
17 as this bill) may ²【establish】 adopt, immediately upon filing with
18 the Office of Administrative Law,² rules and regulations ²【,
19 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
20 (C.52:14B-1 et seq.),】² as necessary to implement the provisions of
21 P.L. , c. (C.) (pending before the Legislature as this bill) ² ,
22 which regulations shall be effective for a period not to exceed 365
23 days from the date of filing. The rules and regulations shall
24 thereafter be amended, adopted, or readopted in accordance with the
25 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.)².

26

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

31

32

33

34

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

SENATE, No. 853

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator JAMES BEACH

District 6 (Burlington and Camden)

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 introduced.



(Sponsorship Updated As Of: 2/10/2020)

S853 SWEENEY, BEACH

2

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

28

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

43

44 4. The provisions of P.L. , c. (C.) (pending before the
45 Legislature as this bill) shall not apply to a surface highway or
46 bridge contract if the head of a State contracting agency
47 constructing a surface highway or bridge, in the head of the
48 agency’s sole discretion, determines that:

S853 SWEENEY, BEACH

3

- 1 a. complying with the provisions of P.L. , c. (C.)
2 (pending before the Legislature as this bill):
3 (1) would not be in the public interest; or
4 (2) would result in the loss or reduction of federal funding for
5 the surface highway or bridge contract, or the ability to obtain that
6 federal funding would be limited or jeopardized by the agency's
7 compliance with P.L. , c. (C.) (pending before the
8 Legislature as this bill);
9 b. there is an immediate or emergency need existing for the
10 structural iron or structural steel;
11 c. the structural iron or structural steel is not manufactured in
12 the United States in sufficient and reasonably available quantities or
13 of satisfactory quality or design to meet the State contracting
14 agency's requirements;
15 d. obtaining the iron or steel product in the United States would
16 increase the cost of the contract by an unreasonable amount;
17 e. the iron or steel is necessary for the operation of or repairs
18 of critical infrastructure that is necessary to avoid a delay in the
19 delivery of critical services that could compromise the public
20 welfare;
21 f. a reciprocal trade agreement or treaty has been negotiated by
22 the State or by the United States government on behalf of or
23 including this State with a foreign nation or government providing
24 for nondiscriminatory governmental procurement practices or
25 policies with that foreign nation or government; or
26 g. the design and environmental studies for the surface
27 highway or bridge project have commenced prior to the effective
28 date of P.L. , c. (C.) (pending before the Legislature as this
29 bill).
30
31 5. Nothing in P.L. , c. (C.) (pending before the
32 Legislature as this bill) is intended to contravene any existing
33 treaties, laws, trade agreements, or regulations of the United States
34 or subsequent trade agreements entered into between any foreign
35 countries and this State or the United States. Nothing in P.L. , c.
36 (C.) (pending before the Legislature as this bill) shall be
37 interpreted to require a contractor performing a surface highway or
38 bridge contract to certify that the iron or steel product used in a
39 surface road or bridge pursuant to P.L. , c. (C.) (pending
40 before the Legislature as this bill) is made in whole, or in
41 substantial part, in the United States.
42
43 6. Any State contracting agency subject to the provisions of
44 P.L. , c. (C.) (pending before the Legislature as this bill)
45 may establish rules and regulations, pursuant to the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary
47 to implement the provisions of P.L. , c. (C.) (pending
48 before the Legislature as this bill).

S853 SWEENEY, BEACH

5

1 or subsequent trade agreements entered into between any foreign
2 countries and this State or the United States. Further, nothing in the
3 bill is to be interpreted to require a contractor performing a surface
4 highway or bridge contract to certify that the iron or steel product
5 used in a surface road or bridge is made in whole, or in substantial
6 part, in the United States.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 853

STATE OF NEW JERSEY

DATED: JANUARY 25, 2021

The Assembly State and Local Government Committee reports favorably Senate Bill No. 853 (1R).

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 are not apply to a surface highway or bridge contract if the head of the State contracting agency, in the head of the agency’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.

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."

ASSEMBLY, No. 5064

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 7, 2020

Sponsored by:

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Co-Sponsored by:

**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 introduced.



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

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2 supplementing Title 52 of the Revised Statutes.

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5 of New Jersey:

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8 Buy American Act.”

9

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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” means 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.

44

45 4. The provisions of P.L. , c. (C.) (pending before the
46 Legislature as this bill) shall not apply to a surface highway or
47 bridge contract if the head of a State contracting agency

1 constructing a surface highway or bridge, in the head of the
2 agency's sole discretion, determines that:

3 a. complying with the provisions of P.L. , c. (C.)
4 (pending before the Legislature as this bill):

5 (1) would not be in the public interest; or

6 (2) would result in the loss or reduction of federal funding for
7 the surface highway or bridge contract, or the ability to obtain that
8 federal funding would be limited or jeopardized by the agency's
9 compliance with P.L. , c. (C.) (pending before the
10 Legislature as this bill);

11 b. there is an immediate or emergency need existing for the
12 structural iron or structural steel;

13 c. the structural iron or structural steel is not manufactured in
14 the United States in sufficient and reasonably available quantities or
15 of satisfactory quality or design to meet the State contracting
16 agency's requirements;

17 d. obtaining the iron or steel product in the United States would
18 increase the cost of the contract by an unreasonable amount;

19 e. the iron or steel is necessary for the operation of or repairs
20 of critical infrastructure that is necessary to avoid a delay in the
21 delivery of critical services that could compromise the public
22 welfare;

23 f. a reciprocal trade agreement or treaty has been negotiated by
24 the State or by the United States government on behalf of or
25 including this State with a foreign nation or government providing
26 for nondiscriminatory governmental procurement practices or
27 policies with that foreign nation or government; or

28 g. the design and environmental studies for the surface
29 highway or bridge project have commenced prior to the effective
30 date of P.L. , c. (C.) (pending before the Legislature as this
31 bill).

32

33 5. Nothing in P.L. , c. (C.) (pending before the
34 Legislature as this bill) is intended to contravene any existing
35 treaties, laws, trade agreements, or regulations of the United States
36 or subsequent trade agreements entered into between any foreign
37 countries and this State or the United States. Nothing in
38 P.L. , c. (C.) (pending before the Legislature as this bill)
39 shall be interpreted to require a contractor performing a surface
40 highway or bridge contract to certify that the iron or steel product
41 used in a surface road or bridge pursuant to P.L. , c. (C.)
42 (pending before the Legislature as this bill) is made in whole, or in
43 substantial part, in the United States.

44

45 6. Any State contracting agency subject to the provisions of
46 P.L. , c. (C.) (pending before the Legislature as this bill)
47 may establish rules and regulations, pursuant to the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary
2 to implement the provisions of P.L. , c. (C.) (pending
3 before the Legislature as this bill).

4

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

9

10

11

STATEMENT

12

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

23

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

26

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

31

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

33

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

37

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

39

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

43

44 (6) a reciprocal trade agreement or treaty has been negotiated by
45 the State or by the United States government on behalf of or
46 including this State with a foreign nation or government providing
47 for nondiscriminatory governmental procurement practices or
policies with that foreign nation or government; or

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

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

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5064

STATE OF NEW JERSEY

DATED: JANUARY 25, 2021

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 5064.

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 highway or bridge is made in whole, or in substantial part, in the United States.

Governor Murphy Takes Action on Legislation

05/11/2021

TRENTON – Today, Governor Murphy signed the following bills into law:

S-767/A-4552 (Gopal, Greenstein/Houghtaling, Benson, Tully) – Exempts New Jersey Infrastructure Bank projects from certain local bond requirements

S-942/A-2890 (Singleton/Lopez, Chiaravalloti, Timberlake) – Requires certain standards for professional and occupational boards considering applicants with criminal history records

S-1937/A-1597 (Madden, Sweeney/Mejia, Timberlake, Vainieri Huttie) – Establishes Task Force to Promote Employment by State Agencies of People with Disabilities

S-2486/A-4264 (Sweeney/Taliaferro, Lampitt, Vainieri Huttie) – Establishes Clayton Model Pilot Program in DOE to provide school-based social emotional learning to students in grades kindergarten through five at certain public schools

S-2728/A-4835 (Sweeney, A.M. Bucco/Verrelli, Burzichelli, Wirths) – Adds two members to State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration (HVACR) Contractors

S-2832/A-5295 (Ruiz, Beach/Quijano, Lampitt) – Allows student enrolled in institution of higher education who has completed 30 semester-hour credits to serve as substitute teacher; extends time period substitute teacher may serve during public health emergency

S-3145/A-2308 (Greenstein, Pou/Vainieri Huttie, Johnson, Downey) – Concerns names required on applications for professional and occupational licensure

S-3198/A-5078 (Codey, Gopal/Dancer, Caputo) – Extends time outstanding parimutuel ticket may be claimed from six months to 12 months; allows additional time to claim outstanding parimutuel tickets and unclaimed cash vouchers due to Public Health Emergency

S-3234/A-5149 (Singleton, A.M. Bucco/Greenwald, Benson, Johnson) – Allows deduction from tax of certain expenses when taxpayer's federal paycheck protection program loan is forgiven and excludes those forgiven loans from gross income tax

Governor Murphy conditionally vetoed the following bills:

S-853/A-5064 (Sweeney, Beach/Verrelli, Giblin, Danielsen) – **CONDITIONAL** – "New Jersey Buy American Act"; requires certain State agency highway and bridge construction contracts to include iron and steel products made in U.S.

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S-890/A-1061 (Pou, Codey/Jasey, Johnson, Verrelli) – **CONDITIONAL** – Requires DOH and DHS to identify and take appropriate steps to secure federal sources of funding to support maternal mental health

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S-1676/A-3326 (Smith, Vitale/Conaway, Reynolds-Jackson, Vainieri Huttle) – CONDITIONAL – Allows hospitals to construct housing and provide wrap-around services for individuals who are homeless or housing insecure

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May 11, 2021

SENATE BILL NO. 853
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 853 (First Reprint) with my recommendations for reconsideration.

This bill, designated as the "New Jersey Buy American Act," would require, subject to certain exceptions set forth in the bill, that all surface highway or bridge contracts over \$1 million include a provision requiring the use of American-made structural iron and structural steel. Specifically, for structural iron or structural steel products, the bill requires that all manufacturing take place in the United States, from the initial melting stage through the application of coatings. The legislation would apply to contracts that are solicited after the effective date of the bill.

I applaud the sponsors of this legislation for exploring ways to ensure that the State is investing its taxpayer dollars in American businesses, including small businesses. Supporting American companies is particularly important as we emerge from the hardships wrought by the Coronavirus disease 2019 (COVID-19) pandemic. Using domestic goods and materials spurs the creation of well-paid, union jobs and increases investments in the manufacturing industry and workforce, which will aid our efforts to build a stronger and fairer economy.

This bill reaffirms our longstanding commitment to American suppliers, as current law already requires that materials used in public works be domestically sourced, whenever practical. The bill would build on the State's existing preference for domestic materials by setting forth a clear standard for State contracting agencies to follow when considering the source of materials used for surface highway or bridge contracts. The State has a unique

ability to support America's workers and manufacturers by leveraging its procurement authority, and our preference for domestic materials should be clearly delineated in order to ensure that it is implemented consistently and effectively.

I wholly agree that the State, its workers, and its businesses would benefit from a clearer standard governing the circumstances under which domestic materials must be used. However, I am concerned that some of the bill's requirements could inadvertently jeopardize federal funding for bridge and highway projects and cause the State to incur additional costs for those projects. The current practice of the New Jersey Department of Transportation ("DOT") is to align its procurement processes to federal law in order to preserve its ability to secure maximum federal funding for bridge and highway projects. When a particular project is initially conceived, there is sometimes uncertainty about the ultimate source of funding for the project, which is why DOT typically conforms its procurement processes to federal law. Consequently, I am recommending minor changes to the bill to ensure that DOT has maximum flexibility to secure federal funding for bridge and highway projects and obviate the need for DOT to run separate procurement processes for federal- and State-funded projects, which would create inefficiencies and run counter to the public interest.

Specifically, I am recommending that the bill's \$1 million threshold be removed, as there is currently no monetary threshold for triggering the Buy American requirement under current State or federal law. In addition to allowing DOT to align its procurement process with federal law, the removal of the \$1 million threshold will subject a greater number of projects to the Buy American requirement. The revisions I am recommending will also ensure

that miscellaneous components of a project, such as nuts and bolts and iron and steel that are components of other items, will be subject to the Buy American requirement. Additionally, to ensure compliance with the bill's requirements and to better align this bill with federal law, I am recommending that the bill permit a State contracting agency to require contractors to certify that the iron or steel product used in a surface road or bridge is made in the United States.

Therefore, I herewith return Senate Bill No. 853 (First Reprint) and recommend that it be amended as follows:

- Page 2, Section 3, Line 32: Delete "over \$1 million in value and"
- Page 2, Section 3, Line 36: After "bridge," insert "including miscellaneous components, as determined pursuant to regulations adopted by the State contracting agency, such as nuts and bolts and iron and steel that is a component of other items such as reinforced steel within precast concrete items,"
- Page 2, Section 3, Lines 38-39: Delete ", its territories, or possessions"
- Page 3, Section 4, Line 21: After "of the" insert "overall construction project"
- Page 3, Section 4, Line 21: Delete "an unreasonable amount" and insert "more than 25 percent"
- Page 3, Section 5, Line 40: Delete "Nothing in P.L. ,"
- Page 3, Section 5, Lines 41-46: Delete in their entirety.
- Page 4, Section 6, Line 1: Delete "Any" and insert "Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, any"
- Page 4, Section 6, Line 3: Delete "establish" and insert "adopt, immediately upon filing with the Office of Administrative Law,"

Page 4, Section 6, Lines 3-4:

Delete ", pursuant to the
"Administrative Procedure
Act," P.L.1968, c.410
(C.52:14B-1 et seq.),"

Page 4, Section 6, Line 6:

After "bill)" insert ", which
regulations shall be effective
for a period not to exceed 365
days from the date of filing.
The rules and regulations
shall thereafter be amended,
adopted, or readopted in
accordance with the
requirements of P.L.1968,
c.410 (C.52:14B-1 et seq.)"

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor

Governor Murphy Takes Action On Legislation

06/24/2021

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

A-2116/S-2009 w/GR (Tully, Swain, Armato/Lagana) Requires State Treasurer to submit report to Legislature every six months identifying deadlines for applications for federal funds by State agencies.

A-4745/S3277 (Armato, Chaparro, Danielsen/Bucco, Singleton, Doherty) Raises from 45 to 57 maximum eligibility age for exempt fireman certificates and membership in New Jersey State Fireman's Association.

A-5590/S-3819 (Mazzeo, Armato, Greenwald/Sweeney, Beach) Extends period of municipal stabilization and recovery, with certain modifications, under "Municipal Stabilization and Recovery Act."

S-347/A-1992 w/GR (Smith, Vitale/Stanley, Conaway, Houghtaling) Establishes "NJ One Health Task Force."

S-619/A1635 w/GR (O'Scanlon/Lampitt, Downey) Permits use of telemedicine and telehealth to authorize patients for medical cannabis and to issue written instructions for dispensing medical cannabis. *

S-853/A-5064 w/GR (Sweeney, Beach/Verrelli, Giblin, Danielsen) "New Jersey Buy American Act"; requires certain State agency highway and bridge construction contracts to include iron and steel products made in U.S.

S-890/A-1061 w/GR (Pou, Codey/Jasey, Johnson, Verrelli) Requires DOH and DHS to identify and take appropriate steps to secure federal sources of funding to support maternal mental health.

S-3686/A-5540 (Sweeney/ Burzichelli, Freiman) Supplements Department of Transportation language provisions in FY 2021 Appropriations Act to provide flexibility for debt service payments.

Governor Murphy conditionally vetoed the following bill:

S-2682/A-4016 (Gopal, Kean/Dancer, Benson, Verrelli) – CONDITIONAL - Establishes the New Jersey Rare Disease Advisory Council.

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Governor Murphy will deliver the following conditional veto to the Senate on Monday, June 28:

S-3658/A-5641 (Cunningham, Scutari/ Chiaravalloti, Mukherji, Carter) – CONDITIONAL - Eliminates mandatory minimum terms of imprisonment determined by Legislature to be of non-violent nature.

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