

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)

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” 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).

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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.

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STATEMENT

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

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

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

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

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

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

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