

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5629

By Delegates Worrell, Shamblin, Dean, Vance, Toney,
Sheedy, E. Pritt, Heckert, Foggin, Miller, and Ferrell

[Introduced February 12, 2024; Referred to the
Committee on Government Organization then
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §5A-3-64, all relating to the requirement that contracts or purchases of certain
 3 materials for public buildings or public works be manufactured in the United States;
 4 providing exceptions; requiring the Secretary of Administration approve waivers of these
 5 requirements; and defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-64. Use of American Materials.

1 (a) Notwithstanding any other provision of law, each contract for the construction,
 2 reconstruction, alteration, repair, improvement or maintenance of a public building or public works
 3 made by a public agency shall contain a provision that the iron, steel, and manufactured goods
 4 used or supplied in the performance of the contract or any subcontract thereto shall be
 5 manufactured in the United States.

6 (b) The provisions of subsection (a) of this section shall not apply in any case or category of
 7 cases in which the executive head of a public agency finds:

8 (1) That their application would be inconsistent with the public interest;

9 (2) That such materials and products are not produced in the United States in sufficient and
 10 reasonably available quantities and of a satisfactory quality; or

11 (3) That inclusion of domestic material will increase the cost of the overall project contract
 12 by more than 25 percent.

13 (c) If the executive head of a public agency receives a request for a waiver under
 14 subsection (b), the agency shall provide notice of and an opportunity for public comment on the
 15 request at least 30 days before making a finding based on the request.

16 (1) A notice provided under subsection (b) shall:

17 (A) Include the information available to the Secretary of Administration concerning the
 18 request, including whether the request is being made under subsection (b)(1), (b)(2), or (b)(3); and

19 (B) Be provided by electronic means, including on the official public Internet Web site of the
20 agency.

21 (d) If the Secretary issues a waiver under subsection (b), the Secretary shall publish a
22 detailed justification for the waiver that—

23 (1) Addresses the public comments received under paragraph (c)(A); and

24 (2) Is published before the waiver takes effect.

25 (e) Intentional Violations. - If it has been determined by a court or federal or state agency
26 that any person intentionally –

27 (1) Affixed a label bearing a "Made in America" inscription, or any inscription with the same
28 meaning, to any iron, steel or manufactured good used in projects to which this section applies,
29 sold in or shipped to the United States that was not made in the United States; or

30 (2) Represented that any iron, steel, or manufactured good used in projects to which this
31 section applies that was not produced in the United States, was produced in the United States;
32 that person shall be ineligible to receive any contract or subcontract with this State pursuant to the
33 debarment or suspension provisions contained in §5A-3-1 et seq. of this code.

34 (f) This section shall be applied in a manner consistent with the State's obligations under
35 any applicable international agreements pertaining to government procurement.

36 (g) For the purpose of this section, the following words have the meaning ascribed to them:

37 (1) "Public agency" means the State of West Virginia, its departments, agencies, boards,
38 commissions, and institutions, and all units and political subdivisions thereof, including local
39 school districts;

40 (2) "Manufactured"

41 (A) In the case of an iron or steel product all manufacturing must take place in the United
42 States, except metallurgical processes involving the refinement of steel additives; and

43 (B) In the case of a manufactured good, a good will be considered manufactured in the
44 United States if:

45 (i) All of the manufacturing processes for the product take place in the United States; and

46 (ii) The components of the product must be of U.S. origin. A component will be considered
47 of a product of U.S. origin if it all the manufacturing processes take place in the United States,
48 regardless of the origin of its subcomponents.

49 (3) "Public Buildings and Public Works" means any structure, building, highway, waterway,
50 street, bridge, transit system, airport or other betterment, work or improvement whether of a
51 permanent or temporary nature and whether for governmental or proprietary use. The term
52 includes, but is not limited to, any railway, street railway, subway, elevated and monorail
53 passenger or passenger and rail rolling stock, self-propelled cars, gallery cars, locomotives,
54 passenger buses, wires, poles and equipment for electrification of a transit system, rails, tracks,
55 roadbeds, guideways, elevated structures, buildings, schools, hospitals, stations, terminals,
56 docks, shelters and repairs to any of the foregoing.

57 (4) "United States" means the United States of America and includes all territory,
58 continental or insular, subject to the jurisdiction of the United States.

NOTE: The purpose of this bill is to require public agencies to purchase materials manufactured in the United States for construction and public works.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.