

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 923

Introduced by Mello, 5; Brasch, 16; Haar, 21; Howard, 9; McGill, 26;
Nordquist, 7.

Read first time January 10, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to state government; to adopt the Nebraska Buy

2 American Act.

3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known and
2 may be cited as the Nebraska Buy American Act.

3 Sec. 2. (1) The Legislature finds that:

4 (a) The production of iron, steel, and manufactured goods
5 provides jobs and family income to many Nebraskans and to millions of
6 persons in the United States;

7 (b) The taxes paid to the State of Nebraska and its
8 political subdivisions by employers and employees engaged in the
9 production and sale of iron, steel, and manufactured goods are a
10 significant source of tax revenue for the State of Nebraska; and

11 (c) The economy and general welfare of the State of
12 Nebraska and its people and the economy and general welfare of the
13 United States are inseparably linked to the preservation and
14 development of manufacturing industries in the State of Nebraska as
15 well as the other states of the United States.

16 (2) It should be the policy of the State of Nebraska that
17 its taxpayer dollars be reinvested with its individual and employer
18 taxpayers in order to foster job retention and growth, particularly
19 within the manufacturing sector.

20 (3) The State of Nebraska's procurement policies should
21 reflect the principles of the State of Nebraska and the United
22 States, ensuring that the products of those companies and workers who
23 abide by our workplace safety and environmental laws and regulations
24 are rewarded with a commonsense preference in government contracting.

25 (4) It is therefor declared to be the policy of the State

1 of Nebraska that all state agencies should aid and promote the
2 economy of the State of Nebraska and the United States by requiring a
3 preference for the procurement of iron, steel, and manufactured goods
4 produced in the United States in all contracts for the construction,
5 reconstruction, repair, improvement, or maintenance of public works.

6 Sec. 3. For purposes of the Nebraska Buy American Act:

7 (1) State agency means any division, department, board,
8 bureau, commission, or agency of the State of Nebraska;

9 (2) Public works means any structure, building, highway,
10 waterway, street, bridge, transit system, airport, or other
11 betterment, work, or improvement, whether of a permanent or temporary
12 nature and whether for governmental or proprietary use. Public works
13 includes, but is not limited to, any railway, street railway, subway,
14 elevated and monorail passenger or passenger and rail rolling stock,
15 self-propelled cars, gallery cars, locomotives, passenger buses,
16 wires, poles and equipment for electrification of a transit system,
17 rails, tracks, roadbeds, guideways, elevated structures, buildings,
18 stations, terminals, docks, shelters, and repairs to any of the
19 foregoing; and

20 (3) Manufactured in the United States means:

21 (a) In the case of an iron or steel product, such product
22 shall be deemed to be manufactured in the United States if all
23 manufacturing has taken place in the United States, except
24 metallurgical processes involving the refinement of steel additives;
25 and

1 (b) In the case of a manufactured good, such good shall
2 be deemed to be manufactured in the United States if:

3 (i) All of the manufacturing processes for the good take
4 place in the United States; and

5 (ii) All of the components of the product are of United
6 States origin. A component will be considered a good of United States
7 origin if all of the manufacturing processes of the component have
8 taken place in the United States, regardless of the origin of its
9 subcomponents.

10 Sec. 4. (1) Each contract for the construction,
11 reconstruction, alteration, repair, improvement, or maintenance of a
12 public works made by a state agency shall contain a provision that
13 the iron, steel, and manufactured goods used or supplied in the
14 performance of the contract or any subcontract thereto shall be
15 manufactured in the United States.

16 (2) Subsection (1) of this section shall not apply if the
17 head of a state agency finds:

18 (a) That the application of subsection (1) of this
19 section would be inconsistent with the public interest;

20 (b) That such materials and products as required by
21 subsection (1) of this section are not produced in the United States
22 in sufficient and reasonably available quantities and of a
23 satisfactory quality; or

24 (c) That inclusion of such materials and products as
25 required by subsection (1) of this section will increase the cost of

1 the overall project contract by more than ten percent.

2 (3) If the head of a state agency determines that it is
3 necessary to waive the application of subsection (1) of this section
4 based on a finding under subsection (2) of this section, the head of
5 the state agency shall, before the date on which such finding takes
6 effect:

7 (a) Publish on the state agency's web site, the web site
8 of the Department of Administrative Services, or in one or more
9 newspapers of general circulation within the state, and in such
10 additional newspapers as may be necessary to ensure proper notice, a
11 detailed written justification as to why the waiver is needed;

12 (b) Provide notice of such finding and an opportunity for
13 public comment on such finding for a reasonable period of time not to
14 exceed fifteen days; and

15 (c) Consider all comments received during the comment
16 period in evaluating the waiver request.

17 (4) If a court or federal or state agency determines that
18 any person intentionally committed one of the following acts, such
19 person shall be ineligible to receive any contract or subcontract
20 from a state agency:

21 (a) Affixed a label bearing a Made in America inscription
22 or any inscription with the same meaning to any material or product
23 sold in or shipped to the United States that was not manufactured in
24 the United States and that was used in a project to which this
25 section applies; or

1 (b) Represented that any material or product sold in or
2 shipped to the United States that was not manufactured in the United
3 States and that was used in a project to which this section applies
4 was manufactured in the United States.

5 (5) If the head of a state agency, in consultation with
6 the federal Office of the United States Trade Representative,
7 determines that (a) a foreign country is a party to an agreement with
8 the United States, (b) pursuant to such agreement the head of an
9 agency of the United States has waived the requirements of this
10 section, and (c) the foreign country has violated the terms of the
11 agreement by discriminating against products covered by this section
12 that are produced in the United States and are covered by the
13 agreement, subsection (2) of this section shall not apply to products
14 produced in such foreign country.