

STATE OF NEW YORK

9571

IN ASSEMBLY

January 23, 2018

Introduced by M. of A. CROUCH -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law and the public authorities law, in relation to including wood laminated structural components for bridges and buildings to the "New York Buy American Act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 146 of the state finance law, as amended by chapter 451 of the laws of 2017, is amended to read as follows:

§ 146. Certain construction contracts involving steel and wood laminated structural components. 1. Notwithstanding any other provisions of law, all contracts over one hundred thousand dollars in value made and awarded by any department or agency of the state for the construction, reconstruction, alteration, repair, maintenance or improvement of any public works shall require that structural steel, reinforcing steel and/or other major steel items to be incorporated in the work of the contract shall be produced or made in whole or substantial part in the United States, its territories or possessions.

2. Notwithstanding the provisions of subdivision one of this section, all contracts over one million dollars in value and made and awarded by the department of transportation, the office of general services, and the state university of New York construction fund for the construction, reconstruction, alteration, repair, maintenance or improvement of any surface roads or bridges, shall contain a provision that the structural iron ~~[and]~~, structural steel and wood laminated structural components used or supplied in the performance of the contract or any subcontract thereto and permanently incorporated into such surface road or bridge, shall be produced or made in whole or substantial part in the United States, its territories or possessions. In the case of a structural iron or structural steel product all manufacturing must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving the refinement of steel additives. In the case of wood laminated structural components all manufacturing must take place in the United States. For the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets ~~[-]~~ is old law to be omitted.

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purposes of this section, "permanently incorporated" shall mean an iron or steel product or wood laminated structural component that is required to remain in place at the end of the project contract, in a fixed location, affixed to the public work to which it was incorporated. Iron and steel products and wood laminated structural components that are capable of being moved from one location to another are not permanently incorporated into a public work.

3. The provisions of this section shall not apply if the head of the department or agency constructing the public works, in his or her sole discretion, determines that such provisions would not be in the public interest, would result in unreasonable costs or that such iron ~~or~~ steel or wood laminated structural components, including without limitation structural iron and structural steel, cannot be produced or made in the United States in sufficient and reasonably available quantities and of satisfactory quality, or would result in the loss or reduction of federal funding for the subject contract or the ability to obtain such federal funding would be limited or jeopardized by compliance with this section; or there is an immediate or emergency need existing for the structural steel ~~or~~ structural iron or wood laminated structural components; or the structural steel ~~or~~ structural iron or wood laminated structural components is not manufactured in the United States in sufficient and reasonably available quantities or of satisfactory quality or design to meet the department's or agency's requirements; or obtaining such steel ~~or~~ iron or wood laminated structural components in the United States would increase the cost of the contract by an unreasonable amount; or such steel ~~or~~ iron ~~is~~ or wood laminated structural components are 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; or 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 for nondiscriminatory governmental procurement practices or policies with such foreign nation or government.

4. Nothing in this section is 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 the state or the United States.

5. Any agency subject to the provisions of this section shall be authorized to establish rules and regulations for the effective administration of this section, provided however, nothing in this section shall be interpreted to require a contractor to certify that the structural iron ~~or~~ structural steel or wood laminated structural components used in a road or bridge pursuant to this section is made in whole or in substantial part in the United States.

§ 2. Section 2603-a of the public authorities law, as amended by chapter 451 of the laws of 2017, is amended to read as follows:

§ 2603-a. Letting of certain contracts involving steel products or wood laminated structural components. 1. Notwithstanding any other provision of law, all public authorities shall award contracts involving steel products as follows:

a. All purchase contracts for supplies, material or equipment involving an estimated expenditure in excess of fifty thousand dollars shall require with respect to materials, supplies and equipment made of, fabricated from, or containing steel components, that such steel components be produced or made in whole or substantial part in the United

1 States, its territories or possessions. The provisions of this paragraph
2 shall not apply to motor vehicles and automobile equipment assembled in
3 Canada in conformity with the United States-Canadian trade agreements
4 known as the "Automotive Products Trade Act of 1965" or any amendments
5 thereto.

6 b. All contracts in excess of one hundred thousand dollars for the
7 construction, reconstruction, alteration, repair, maintenance or
8 improvement of public works shall require that all structural steel,
9 reinforcing steel or other major steel items to be incorporated in the
10 work of the contract shall be produced or made in whole or substantial
11 part in the United States, its territories or possessions.

12 2. Notwithstanding the provisions of subdivision one of this section,
13 all contracts over one million dollars in value made and awarded by the
14 dormitory authority, the metropolitan transportation authority, the
15 bridge authority or the thruway authority, on its account or for the
16 benefit of a state agency or authority, for the construction, recon-
17 struction, alteration, repair, maintenance or improvement of any road or
18 bridge, shall contain a provision that the structural iron ~~[and]~~, struc-
19 tural steel and wood laminated structural components used or supplied in
20 the performance of the contract or any subcontract thereto and perma-
21 nently incorporated into the surface road or bridge shall be produced or
22 made in whole or substantial part in the United States, its territories
23 or possessions. In the case of a structural iron or structural steel
24 product all manufacturing must take place in the United States, from the
25 initial melting stage through the application of coatings, except metal-
26 lurgical processes involving the refinement of steel additives. In the
27 case of wood laminated structural components, all manufacturing must
28 take place in the United States. For purposes of this section, "perma-
29 nently incorporated" shall mean an iron or steel product or wood lami-
30 nated structural component that is required to remain in place at the
31 end of the project contract, in a fixed location, affixed to the public
32 work to which it was incorporated. Iron and steel products and wood
33 laminated structural components that are capable of being moved from one
34 location to another are not permanently incorporated into a public
35 building or public work.

36 3. The provisions of this section shall not apply if the governing
37 board or body of such public authority, in its discretion, determines
38 that such provisions would result in unreasonable costs or that such
39 iron, steel products ~~[or]~~, steel components or wood laminated structural
40 components including without limitation structural iron ~~[and]~~, struc-
41 tural steel and wood laminated structural components; cannot be produced
42 or made in the United States in sufficient and reasonably available
43 quantities or of satisfactory quality or design, or would result in the
44 loss or reduction of federal funding for the subject contract or the
45 ability to obtain such federal funding would be limited or jeopardized
46 by compliance with this section; or there is an immediate or emergency
47 need existing for such structural iron, structural steel products ~~[or]~~,
48 structural steel components or wood laminated structural components; or
49 such steel or iron ~~[is]~~ products or wood laminated structural components
50 are not manufactured in the United States in sufficient and reasonably
51 available quantities or of satisfactory quality or design to meet the
52 authority's requirements; or obtaining ~~[for]~~ such iron, steel products
53 ~~[or]~~, steel components or wood laminated structural components in the
54 United States would increase the cost of the contract by an unreasonable
55 amount; or ~~[for]~~ such iron, steel products ~~[or]~~, steel components ~~[is]~~
56 or wood laminated structural components are necessary for the operation

1 of or repairs of critical infrastructure that is necessary to avoid a
2 delay in the delivery of critical services that could compromise the
3 public welfare; or a reciprocal trade agreement or treaty has been nego-
4 tiated by the state or by the United States government on behalf of or
5 including this state with a foreign nation or government for nondiscri-
6 minatory governmental procurement practices or policies with such
7 foreign nation or government.

8 4. Nothing in this section is intended to contravene any existing
9 treaties, laws, trade agreements, or regulations of the United States or
10 subsequent trade agreements entered into between any foreign countries
11 and the state or the United States.

12 5. Any authority subject to the provisions of this section shall be
13 authorized to establish rules and regulations for the effective adminis-
14 tration of this section, provided however, nothing in this section shall
15 be interpreted to require a contractor to certify that the iron ~~[or]~~,
16 steel or wood laminated structural components used in a road or bridge
17 pursuant to this section is made in whole or in substantial part in the
18 United States.

19 § 3. This act shall take effect on the same date and in the same
20 manner as chapter 451 of the laws of 2017, takes effect.