

STATE OF NEW YORK

2776

2019-2020 Regular Sessions

IN ASSEMBLY

January 25, 2019

Introduced by M. of A. CROUCH, BLANKENBUSH, DiPIETRO, D'URSO, GIGLIO, LAWRENCE, MONTESANO -- Multi-Sponsored by -- M. of A. HAWLEY -- 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:

1 Section 1. Section 146 of the state finance law, as amended by chapter
2 451 of the laws of 2017, is amended to read as follows:

3 § 146. Certain construction contracts involving steel and wood lami-
4 nated structural components. 1. Notwithstanding any other provisions of
5 law, all contracts over one hundred thousand dollars in value made and
6 awarded by any department or agency of the state for the construction,
7 reconstruction, alteration, repair, maintenance or improvement of any
8 public works shall require that structural steel, reinforcing steel
9 and/or other major steel items to be incorporated in the work of the
10 contract shall be produced or made in whole or substantial part in the
11 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 and made and awarded by
14 the department of transportation, the office of general services, and
15 the state university of New York construction fund for the construction,
16 reconstruction, alteration, repair, maintenance or improvement of any
17 surface roads or bridges, shall contain a provision that the structural
18 iron [~~and~~], structural steel and wood laminated structural components
19 used or supplied in the performance of the contract or any subcontract
20 thereto and permanently incorporated into such surface road or bridge,
21 shall be produced or made in whole or substantial part in the United
22 States, its territories or possessions. In the case of a structural
23 iron or structural steel product all manufacturing must take place in

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

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1 the United States, from the initial melting stage through the applica-
2 tion of coatings, except metallurgical processes involving the refine-
3 ment of steel additives. In the case of wood laminated structural compo-
4 nents all manufacturing must take place in the United States. For the
5 purposes of this section, "permanently incorporated" shall mean an iron
6 or steel product or wood laminated structural component that is required
7 to remain in place at the end of the project contract, in a fixed
8 location, affixed to the public work to which it was incorporated. Iron
9 and steel products and wood laminated structural components that are
10 capable of being moved from one location to another are not permanently
11 incorporated into a public work.

12 3. The provisions of this section shall not apply if the head of the
13 department or agency constructing the public works, in his or her sole
14 discretion, determines that such provisions would not be in the public
15 interest, would result in unreasonable costs or that such iron ~~[or]~~,
16 steel or wood laminated structural components, including without limita-
17 tion structural iron and structural steel, cannot be produced or made in
18 the United States in sufficient and reasonably available quantities and
19 of satisfactory quality, or would result in the loss or reduction of
20 federal funding for the subject contract or the ability to obtain such
21 federal funding would be limited or jeopardized by compliance with this
22 section; or there is an immediate or emergency need existing for the
23 structural steel ~~[or]~~, structural iron or wood laminated structural
24 components; or the structural steel ~~[or]~~, structural iron or wood lami-
25 nated structural components is not manufactured in the United States in
26 sufficient and reasonably available quantities or of satisfactory quali-
27 ty or design to meet the department's or agency's requirements; or
28 obtaining such steel ~~[or]~~, iron or wood laminated structural components
29 in the United States would increase the cost of the contract by an
30 unreasonable amount; or such steel ~~[or]~~, iron ~~[is]~~ or wood laminated
31 structural components are necessary for the operation of or repairs of
32 critical infrastructure that is necessary to avoid a delay in the deliv-
33 ery of critical services that could compromise the public welfare; or a
34 reciprocal trade agreement or treaty has been negotiated by the state or
35 by the United States government on behalf of or including this state
36 with a foreign nation or government for nondiscriminatory governmental
37 procurement practices or policies with such foreign nation or govern-
38 ment.

39 4. Nothing in this section is intended to contravene any existing
40 treaties, laws, trade agreements, or regulations of the United States or
41 subsequent trade agreements entered into between any foreign countries
42 and the state or the United States.

43 5. Any agency subject to the provisions of this section shall be
44 authorized to establish rules and regulations for the effective adminis-
45 tration of this section, provided however, nothing in this section shall
46 be interpreted to require a contractor to certify that the structural
47 iron ~~[or]~~, structural steel or wood laminated structural components used
48 in a road or bridge pursuant to this section is made in whole or in
49 substantial part in the United States.

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

52 § 2603-a. Letting of certain contracts involving steel products or
53 wood laminated structural components. 1. Notwithstanding any other
54 provision of law, all public authorities shall award contracts involving
55 steel products as follows:

1 a. All purchase contracts for supplies, material or equipment involv-
2 ing an estimated expenditure in excess of fifty thousand dollars shall
3 require with respect to materials, supplies and equipment made of,
4 fabricated from, or containing steel components, that such steel compo-
5 nents be produced or made in whole or substantial part in the United
6 States, its territories or possessions. The provisions of this paragraph
7 shall not apply to motor vehicles and automobile equipment assembled in
8 Canada in conformity with the United States-Canadian trade agreements
9 known as the "Automotive Products Trade Act of 1965" or any amendments
10 thereto.

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

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

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

1 authority's requirements; or obtaining [~~for~~] such iron, steel products
2 [~~or~~], steel components or wood laminated structural components in the
3 United States would increase the cost of the contract by an unreasonable
4 amount; or [~~for~~] such iron, steel products [~~or~~], steel components [~~is~~]
5 or wood laminated structural components are necessary for the operation
6 of or repairs of critical infrastructure that is necessary to avoid a
7 delay in the delivery of critical services that could compromise the
8 public welfare; or a reciprocal trade agreement or treaty has been nego-
9 tiated by the state or by the United States government on behalf of or
10 including this state with a foreign nation or government for nondiscri-
11 minatory governmental procurement practices or policies with such
12 foreign nation or government.

13 4. Nothing in this section is intended to contravene any existing
14 treaties, laws, trade agreements, or regulations of the United States or
15 subsequent trade agreements entered into between any foreign countries
16 and the state or the United States.

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

24 § 3. This act shall take effect immediately; provided, however, that
25 the amendments to section 146 of the state finance law made by section
26 one of this act and the amendments to section 2603-a of the public
27 authorities law made by section two of this act shall not affect the
28 expiration of such sections and shall be deemed to expire therewith.