Regular Session, 2011

HOUSE BILL NO. 573

BY REPRESENTATIVE WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROCUREMENT: Enacts the Procurement Preference of Domestic Products Act

AN ACT

To enact R.S. 39:1595.7, relative to procurement; to provide for a preference for the purchase of items manufactured in the United States; to provide for penalties; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:1595.7 is hereby enacted to read as follows:

§1595.7. Preference for items manufactured in the United States; definitions; penalties

A. This Section may be cited as the "Procurement of Domestic Products Act".

B. As used in this Section, the following definitions shall apply:

(1) "Manufactured in the United States" means that the components, sub-components, parts and equipment used in manufacturing, final assembly, processing, packaging, testing or any other process that adds value, quality or reliability to assembled articles, materials or supplies, occurs in the United States.

(2) "Procured products" means assembled articles, materials, goods, equipment or supplies purchased by a purchasing agency.

(3) "Purchasing agency" means each agency, department, board and commission of the executive branch of state government, including each university, whether created by statute or by executive order of the governor of Louisiana.

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(4) "United States" means the United States and any place subject to the jurisdiction of the United States.

C. When purchasing items, every procurement officer under the provisions of this Chapter, or other person acting as the purchasing agent, shall give preference to and purchase manufactured articles, materials and supplies that have been manufactured in the United States. Products manufactured in the United States shall be purchased unless the purchasing agency determines the procured products are not manufactured in the United States in reasonably available quantities.

D. Each contract awarded by a purchasing agency on or after the effective date of this Section shall contain a certification by the contracting entity that the procured products provided pursuant to the contract or a subcontract are manufactured in the United States.

E. The chief procurement officer shall promulgate rules and regulations regarding the pre-qualification of suppliers and contractors under the provision of this Section.

F. Nothing in this Section is intended to contravene any existing treaty, law, agreement, or regulation of the United States. Contracts entered into in accordance with any treaty, law, agreement or regulation of the United State shall not be in violation of this Section. No preference shall be given pursuant to this Section if such preference would contravene any treaty, law, agreement or regulation of the United States.

G. The preference provided for in this Section is in addition to any other preference provided for in state law.

H. If a contractor is awarded a contract under the provisions of this Section and has knowledge that the products supplied were not manufactured in the United States, the following shall apply:

(1) The purchasing agency may void the contract under which the provisions of this Subsection were violated. Any other purchasing agency may also void a contract held with the contractor as of the date the violation is discovered.

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(2) The contractor shall not enter into any other state contract after the date the violation is discovered for a period of no less than five years.

(3) The purchasing agency may recover damages in civil action in an amount three times the value of the products purchased.

Section 2. This Act shall become effective on July 1, 2011; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2011, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Willmott HB No. 573

Abstract: Provides for the Procurement of Domestic Products Act relative to procurement of items manufactured in the United States.

Proposed law provides for the following meanings:

(1) "Manufactured in the United States" means that the components, sub-components, parts and equipment used in manufacturing, final assembly, processing, packaging, testing or any other process that adds value, quality or reliability to assembled articles, materials or supplies, occurs in the United States.

(2) "Procured products" means assembled articles, materials, goods, equipment or supplies purchased by a purchasing agency.

(3) "Purchasing agency" means each agency, department, board and commission of the executive branch of state government, including each university, whether created by statute or by executive order of the governor of Louisiana.

(4) "United States" means the United States and any place subject to the jurisdiction of the United States.

Proposed law provides that when purchasing items, every procurement officer or other person acting as the purchasing agent shall give preference to and purchase manufactured articles, materials and supplies that have been manufactured in the United States. Proposed law further provides that such products shall be purchased unless the purchasing agency determines the procured products are not manufactured in the United States in reasonably available quantities.

Proposed law provides that each contract awarded by a purchasing agency on or after the effective date of proposed law must contain a certification that procured products are manufactured in the United States.

Proposed law provides that the chief procurement officer shall promulgate rules and regulations regarding the pre-qualification of suppliers and contractors under the provision of proposed law.

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Proposed law provides that nothing in proposed law is intended to contravene any existing treaty, law, agreement, or regulation of the United States.

Proposed law provides that any preferences provided for in proposed law is in addition to any other preference provided for in state law.

Proposed law provides that if a contractor is awarded a contract under the provisions proposed law and has knowledge that the products supplied were not manufactured in the United States, the following penalties apply:

(1) The purchasing agency may void the contract under which the provisions of proposed law were violated. Any other purchasing agency may also void a contract held with the contractor as of the date the violation is discovered.

(2) The contractor shall not enter into any other state contract after the date the violation is discovered for a period of no less than five years.

(3) The purchasing agency may recover damages in civil action in an amount three times the value of the products purchased.

Effective July 1, 2011.

(Adds R.S. 39:1595.7)

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