



2013 SENATE BILL 88

March 20, 2013 – Introduced by Senators HANSEN, CARPENTER, HARRIS, C. LARSON, LASSA, RISSER, SHILLING, L. TAYLOR and T. CULLEN, cosponsored by Representatives JORGENSEN, KAHL, GENRICH, HESSELBEIN, BARCA, BERCEAU, BEWLEY, DANOU, HEBL, MASON, PASCH, POPE, RICHARDS, RINGHAND, C. TAYLOR, OHNSTAD and BILLINGS. Referred to Committee on Government Operations, Public Works, and Telecommunications.

1 **AN ACT** *to renumber and amend* 16.754 (2); *to amend* 16.754 (3) (intro.) and
2 (a) and 66.0901 (1m) (b); and *to create* 16.754 (2) (b) and 66.0901 (10) of the
3 statutes; **relating to:** preference in state and local government contracts and
4 procurement for materials manufactured in the United States.

Analysis by the Legislative Reference Bureau

Current law generally authorizes the Department of Administration (DOA) to purchase, or delegate the authority to purchase, all necessary materials and contractual services for all state agencies. With some exceptions, orders or contracts must be awarded to the lowest bidder. One such exception requires, if all other factors are substantially equal, the purchasing agent to purchase materials which are mined, produced, manufactured, fabricated, or assembled (manufactured) to the greatest extent in the United States. Under this bill, with limited exceptions, the state must purchase materials that are manufactured to the greatest extent in the United States, regardless of whether all other factors are substantially equal. This bill also requires, with limited exceptions, that a contract for a public works or public improvement project must contain a provision that the contractor will use materials that are manufactured in the United States.

Generally under current law, if a city, village, town, county, school district, sewer district, technical college district, or other local unit of government wishes to let a public contract involving the construction or repair of any public work or building, or the furnishing of supplies or materials, there are a number of bidding requirements that apply to such contracts. For example, if the value of the contract

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is above a certain amount, or between certain amounts, certain local units of government must publish a notice in the newspaper before it contracts for the work. This bill adds another requirement to public contracts entered into by local units of government. Under this bill, such a public contract must contain a provision that the contractor will use materials that are manufactured in the United States in the performance of the contract.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.754 (2) of the statutes is renumbered 16.754 (2) (a) and amended
2 to read:

3 16.754 (2) (a) Notwithstanding s. 16.75 (1) (a) 2., (2), (2m) and (6), when all
4 other factors are substantially equal making purchases, the state shall purchase
5 materials which are manufactured to the greatest extent in the United States.

6 **SECTION 2.** 16.754 (2) (b) of the statutes is created to read:

7 16.754 (2) (b) Any contract entered into by the state for the construction, repair,
8 or modification of a public works or public improvement project must contain a
9 provision that the contractor will use materials that are manufactured in the United
10 States in the performance of the contract.

11 **SECTION 3.** 16.754 (3) (intro.) and (a) of the statutes are amended to read:

12 16.754 (3) EXEMPTIONS. (intro.) Subsection (2) (a) does not apply if the
13 materials are purchased for the purpose of commercial resale or for the purpose of
14 use in the production of goods for commercial sale. Subsection (2) does not apply to
15 the purchase of stationery and printing materials. ~~Subsection (2) does not apply if~~
16 ~~the department determines, under s. 16.75 (1) (a) 2., that the foreign nation or~~
17 ~~subdivision thereof in which the vendor is domiciled does not give preference to~~
18 ~~vendors domiciled in that nation or subdivision in making governmental purchases.~~

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1 Subsection (2) does not apply if the department or other person having contracting
2 authority in respect to the purchase determines that any of the following:

3 (a) The materials are not manufactured in the United States in sufficient or
4 reasonably available quantities; ~~or~~.

5 **SECTION 4.** 66.0901 (1m) (b) of the statutes is amended to read:

6 66.0901 (1m) (b) Except when necessary to secure federal aid and except as
7 provided in sub. (10), a political subdivision may not use a bidding method that gives
8 preference based on the geographic location of the bidder or that uses criteria other
9 than the lowest responsible bidder in awarding a contract.

10 **SECTION 5.** 66.0901 (10) of the statutes is created to read:

11 66.0901 (10) MATERIALS MANUFACTURED IN THE UNITED STATES. Any public
12 contract entered into by a municipality must contain a provision that the contractor
13 will use materials that are manufactured in the United States in the performance
14 of the contract.

15 **SECTION 6. Initial applicability.**

16 (1) This act first applies to contracts entered into in the fiscal year that begins
17 in the year after this subsection takes effect.

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(END)