



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-3984/1
MPG&EVM:cde

2021 SENATE BILL 444

July 7, 2021 - Introduced by Senators PFAFF, WIRCH, AGARD, CARPENTER, LARSON, RINGHAND, ROYS and SMITH, cosponsored by Representatives MCGUIRE, DOYLE, SNODGRASS, ANDRACA, BILLINGS, BOWEN, CONSIDINE, EMERSON, HEBL, HESSELBEIN, NEUBAUER, OHNSTAD, ORTIZ-VELEZ, POPE, RIEMER, S. RODRIGUEZ, SHANKLAND, SHELTON, SINICKI, SPREITZER, STUBBS, SUBECK and VRUWINK. Referred to Committee on Government Operations, Legal Review and Consumer Protection.

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

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. The bill also requires, with limited exceptions, that a contract for a public works or public improvement project must contain a provision requiring the contractor to use materials that are manufactured in the United States. The bill creates a similar provision for local governments.

Current law generally authorizes the Department of Administration 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 that are mined, produced, manufactured, fabricated, or assembled to the greatest extent 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

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requirements that apply to such contracts. For example, if the value of the contract 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 the bill, these public contracts 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) *Purchase preference.* Notwithstanding s. 16.75 (1) (a) 2., (2), (2m),
4 and (6), when all other factors are substantially equal making purchases, the state
5 shall purchase materials ~~which~~ that are manufactured to the greatest extent in the
6 United States, as defined by the department by rule, unless prohibited by federal law
7 or a treaty or other international agreement.

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

9 16.754 **(2)** (b) Each contract entered into by the state for the construction,
10 repair, or modification of a public works or public improvement project shall contain
11 a provision requiring the contractor to use materials that are manufactured in the
12 United States in the performance of the contract, unless prohibited by federal law
13 or a treaty or other international agreement.

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

15 16.754 **(3)** EXEMPTIONS. (intro.) Subsection (2) (a) does not apply if the
16 materials are purchased for the purpose of commercial resale or for the purpose of
17 use in the production of goods for commercial sale. Subsection (2) (a) does not apply

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1 to the purchase of stationery and printing materials. ~~Subsection (2) does not apply~~
2 ~~if the department determines, under s. 16.75 (1) (a) 2., that the foreign nation or~~
3 ~~subdivision thereof in which the vendor is domiciled does not give preference to~~
4 ~~vendors domiciled in that nation or subdivision in making governmental purchases.~~

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

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

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

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

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

15 66.0901 (10) MATERIALS MANUFACTURED IN THE UNITED STATES. Each public
16 contract entered into by a municipality shall contain a provision that the contractor
17 will use materials that are manufactured in the United States in the performance
18 of the contract, unless prohibited by federal law or a treaty or other international
19 agreement.

20 (END)