

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1163 be amended to read as follows:

1 Page 7, between lines 10 and 11, begin a new paragraph and insert:
2 "SECTION 9. IC 5-16-8-1.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2012]: **Sec. 1.5. For purposes of this chapter, a product is**
5 **considered to be "manufactured in the United States" if the**
6 **following apply:**
7 **(1) In the case of an iron, steel, or foundry product, all**
8 **manufacturing takes place in the United States. However, it**
9 **is not necessary for metallurgical processes involving the**
10 **refinement of steel additives to take place in the United States.**
11 **(2) In the case of a product other than a product described in**
12 **subdivision (1), both of the following apply:**
13 **(A) All the manufacturing processes for the product take**
14 **place in the United States.**
15 **(B) All the manufacturing processes for all components of**
16 **the product take place in the United States, regardless of**
17 **the origin of subcomponents of each product component.**
18 SECTION 10. IC 5-16-8-2, AS AMENDED BY P.L.6-2007,
19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2012]: Sec. 2. ~~(a)~~ Each public agency shall require that every
21 contract for the construction, reconstruction, alteration, repair,
22 improvement, or maintenance of public works ~~contain~~ **contains** a
23 provision that, if any steel ~~or~~ **products**, foundry products, **or other**
24 **products** are to be used or supplied in the performance of the contract

1 or subcontract, only steel ~~or products~~, foundry products, **and other**
 2 **products** made in the United States shall be used or supplied in the
 3 performance of the contract or any of the subcontracts. ~~unless the head~~
 4 ~~of the public agency determines, in writing, that the cost of steel or~~
 5 ~~foundry products is considered to be unreasonable.~~

6 (b) The head of each public agency shall issue rules which provide
 7 that, for purposes of subsection (a), the bid or offered price of any steel
 8 or foundry products of domestic origin is not considered unreasonable
 9 if the price does not exceed the sum of:

10 (1) the bid or offered price of like steel or foundry products of
 11 foreign origin (including any applicable duty); plus

12 (2) a differential of fifteen percent (15%) of the bid or offered
 13 price of the steel or foundry products of foreign origin.

14 However, the fifteen percent (15%) differential provided by
 15 subdivision (2) may be increased to twenty-five percent (25%); if the
 16 head of the public agency determines that use of steel or foundry
 17 products of domestic origin would benefit the local or state economy
 18 through improved job security and employment opportunity. Whenever
 19 the head of a public agency determines that the differential should be
 20 increased above fifteen percent (15%) for a particular project, the head
 21 of the agency shall file a report with the governor and the legislative
 22 services agency detailing the reasons for such determination and the
 23 probable impact on the economy of the use of domestic steel or foundry
 24 castings in the project. A report filed under this subsection with the
 25 legislative services agency must be in an electronic format under
 26 IC 5-14-6.

27 SECTION 11. IC 5-16-8-3.5 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2012]: **Sec. 3.5. A person may not be considered responsible for**
 30 **purposes of awarding a public works contract by a public agency**
 31 **if a court with jurisdiction or a federal or state agency determines**
 32 **that the person has intentionally done either of the following:**

33 (1) The person has affixed to a product:

34 (A) to which this chapter applies;

35 (B) that is sold in or shipped to the United States; and

36 (C) that was not manufactured in the United States;

37 a label bearing the words "Made in America" or any other
 38 words with the same meaning.

39 (2) The person has represented that a product:

40 (A) to which this chapter applies;

41 (B) that is sold in or shipped to the United States; and

42 (C) that was not manufactured in the United States;

43 was manufactured in the United States.

44 SECTION 12. IC 5-16-8-4, AS AMENDED BY P.L.6-2007,
 45 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 46 JULY 1, 2012]: **Sec. 4. (a) A provision contained in a contract under**

1 **section 2** of this chapter does not apply to a particular product if the
2 head of the public agency determines, in writing, that steel or foundry
3 products are makes a written determination that any of the
4 following apply:

5 (1) The application of section 2 of this chapter with respect to
6 the product is inconsistent with the public interest.

7 (2) The product is not produced in the United States in sufficient
8 quantities or of a satisfactory quality to meet the requirements
9 of the contract.

10 (3) Requiring that the product be made in the United States
11 will increase the cost of the overall project by more than
12 twenty-five percent (25%).

13 (b) If a determination is made under subsection (a), the head of
14 the public agency must do the following before the determination
15 becomes effective:

16 (1) Publish notice:

17 (A) in the Indiana Register, if the public agency is a state
18 agency; or

19 (B) under IC 5-3-1, if the public agency is not a state
20 agency;

21 giving a detailed explanation of the reasons why section 2 of
22 this chapter cannot be applied with respect to the particular
23 product. The notice must state that the public will be provided
24 an opportunity to comment on the proposed determination for
25 a period that ends on the fifteenth day after the date the notice
26 is published.

27 (2) Consider all comments received during the comment
28 period in deciding whether the proposed determination should
29 become effective.

30 (c) The head of a public agency may modify or withdraw a
31 proposed determination based on comments received under
32 subsection (b).

33 (d) If the head of a public agency, in consultation with the
34 United States Trade Representative, determines that:

35 (1) a foreign nation is a party to an agreement with the United
36 States, and under that agreement the head of an agency of the
37 United States has waived the requirements of section 2 of this
38 chapter; and

39 (2) the foreign nation has violated the terms of the agreement
40 with the United States by discriminating against products:

41 (A) manufactured in the United States; and

42 (B) covered by this chapter and the agreement;

43 the head of the public agency may not make a determination under
44 subsection (a) with respect to a product made in the foreign nation.

45 SECTION 13. IC 5-22-15-7, AS AMENDED BY P.L.122-2011,
46 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
47 JULY 1, 2012]: Sec. 7. (a) An offeror may claim one (1) of the

1 following types of preference for which the offeror is eligible:

2 (1) An Indiana business preference under rules adopted under
3 section 20 of this chapter or IC 4-13.6-6-2.5.

4 (2) A preference for supplies as provided by sections 16, 18, 19,
5 and 24 of this chapter.

6 (3) An Indiana small business preference as provided by section
7 23 of this chapter.

8 (4) An Indiana farm product preference as provided by section
9 23.5 of this chapter.

10 (b) An offeror may not claim more than one (1) preference as
11 provided by sections 16, 18, 19, and 24 of this chapter for a given
12 supply item.

13 ~~(c) This section does not:~~

14 ~~(1) apply to; or~~

15 ~~(2) limit;~~

16 ~~action of the Indiana department of administration under rules adopted~~
17 ~~under section 21 of this chapter.~~

18 SECTION 14. IC 5-22-15-21 IS REPEALED [EFFECTIVE JULY
19 1, 2012]. Sec. 21: (a) This section does not apply to the state lottery
20 commission created by IC 4-30-3-1.

21 (b) A governmental body shall adopt rules to promote the purchase
22 of supplies manufactured in the United States.

23 (c) Rules adopted under subsection (b) shall provide that supplies
24 manufactured in the United States shall be specified and purchased
25 unless the governmental body determines that any of the following
26 apply:

27 (1) The supplies are not manufactured in the United States in
28 reasonably available quantities.

29 (2) The price of the supplies manufactured in the United States
30 exceeds by an unreasonable amount the price of available and
31 comparable supplies manufactured outside the United States.

32 (3) The quality of the supplies is substantially less than the quality
33 of comparably priced available supplies manufactured outside the
34 United States.

35 (4) The purchase of supplies manufactured in the United States is
36 not in the public interest.

37 SECTION 15. IC 5-22-15.5 IS ADDED TO THE INDIANA CODE
38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2012]:

40 **Chapter 15.5. Purchasing Supplies Manufactured in the United**
41 **States**

42 **Sec. 1. As used in this chapter, "product" refers to a supply**
43 **item.**

44 **Sec. 2. For purposes of this chapter, a product is considered to**
45 **be "manufactured in the United States" if the following apply:**

46 (1) In the case of an iron, steel, or foundry product, all

1 manufacturing takes place in the United States. However, it
 2 is not necessary for metallurgical processes involving the
 3 refinement of steel additives to take place in the United States.

4 (2) In the case of a product other than a product described in
 5 subdivision (1), both of the following apply:

6 (A) All the manufacturing processes for the product take
 7 place in the United States.

8 (B) All the manufacturing processes for all components of
 9 the product take place in the United States, regardless of
 10 the origin of subcomponents of each product component.

11 **Sec. 3. (a) A governmental body shall adopt rules to promote the**
 12 **purchase of products manufactured in the United States.**

13 (b) Except as provided in section 4 of this chapter, rules adopted
 14 under subsection (a) must provide that products manufactured in
 15 the United States shall be specified and purchased.

16 **Sec. 4. (a) Rules adopted under section 3 of this chapter do not**
 17 **apply to a particular product if the purchasing agency determines**
 18 **that any of the following apply:**

19 (1) The application of this section with respect to the product
 20 is inconsistent with the public interest.

21 (2) The product is not produced in the United States in
 22 sufficient quantities or of a satisfactory quality to meet the
 23 requirements of the purchase.

24 (3) Requiring that the product be made in the United States
 25 will increase the cost of the overall purchase by more than
 26 twenty-five percent (25%).

27 (b) If a determination is made under subsection (a), the
 28 purchasing agency must do the following before the determination
 29 becomes effective:

30 (1) Publish notice:

31 (A) in the Indiana Register, if the purchasing agency is a
 32 state agency; or

33 (B) under IC 5-3-1, if the purchasing agency is not a state
 34 agency;

35 giving a detailed explanation of the reasons why section 3 of
 36 this chapter cannot be applied with respect to the particular
 37 product. The notice must state that the public will be provided
 38 an opportunity to comment on the proposed determination for
 39 a period that ends on the fifteenth day after the date the notice
 40 is published.

41 (2) Consider all comments received during the comment
 42 period in deciding whether the proposed determination should
 43 become effective.

44 (c) The purchasing agency may modify or withdraw a proposed
 45 determination based on comments received under subsection (b).

46 (d) If the purchasing agency, in consultation with the United
 47 States Trade Representative, determines that:

- 1 **(1) a foreign nation is a party to an agreement with the United**
 2 **States and under that agreement the head of an agency of the**
 3 **United States has waived the requirements of section 3 of this**
 4 **chapter; and**
 5 **(2) the foreign nation has violated the terms of the agreement**
 6 **with the United States by discriminating against products:**
 7 **(A) manufactured in the United States; and**
 8 **(B) covered by this chapter and the agreement;**
 9 **the purchasing agency may not make a determination under**
 10 **subsection (a) with respect to a product made in the foreign nation.**
 11 **Sec. 5. A person may not be considered responsible for purposes**
 12 **of awarding a contract under this article if a court with**
 13 **jurisdiction or a federal or state agency determines that the person**
 14 **has intentionally done either of the following:**
 15 **(1) The person has affixed to a product:**
 16 **(A) to which this chapter applies;**
 17 **(B) that is sold in or shipped to the United States; and**
 18 **(C) that was not manufactured in the United States;**
 19 **a label bearing the words "Made in America" or any other**
 20 **words with the same meaning.**
 21 **(2) The person has represented that a product:**
 22 **(A) to which this chapter applies;**
 23 **(B) that is sold in or shipped to the United States; and**
 24 **(C) that was not manufactured in the United States;**
 25 **was manufactured in the United States."**
 26 Renumber all SECTIONS consecutively.
 (Reference is to HB 1163 as printed January 25, 2012.)

Representative Austin