

Regular Session, 2012

SENATE BILL NO. 287

BY SENATOR NEVERS

PUBLIC CONTRACTS. Provides for fair treatment for materials produced, manufactured, or fabricated in Louisiana used in public works. (8/1/12)

1 AN ACT

2 To enact R.S. 38:2213.1, relative to public works; to provide for fair treatment for materials  
3 produced, manufactured, or fabricated in Louisiana used in public works; to provide  
4 for definitions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 38:2213.1 is hereby enacted to read as follows:

7 **§2213.1. Fair treatment for materials produced, manufactured, or fabricated**  
8 **in Louisiana used in public works**

9 **A. This Section shall be known and may be referred to as the "Louisiana**  
10 **Products Fair Treatment Act".**

11 **B. Notwithstanding any other provision of law to the contrary, a**  
12 **contractor submitting a bid to a public entity for a public work under the**  
13 **provisions of this Chapter shall make a good faith effort to use in his bid on the**  
14 **public work and his construction of the public work materials produced,**  
15 **manufactured, or fabricated in Louisiana, provided all of the following**  
16 **conditions are met:**

17 **(1) The materials produced, manufactured, or fabricated in Louisiana**

1 meet bid specifications.

2 (2) Bidders shall make a good faith effort to utilize in a public work  
3 contract materials produced, manufactured, or fabricated in Louisiana. To  
4 meet the good faith effort, bidders shall send written notification to at least one  
5 Louisiana firm that can provide materials produced, manufactured, or  
6 fabricated in Louisiana that meet bid specifications. Notification must include  
7 the specifications, information about required qualifications and specifications,  
8 any bonding and insurance information and requirements, or where to acquire  
9 such information. Bidders shall submit documentation of their good faith effort  
10 to the contracting entity prior to any act to award a contract. Failure to provide  
11 this information shall be grounds for finding a bidder non-responsive.

12 (3) The cost of the materials produced, manufactured, or fabricated in  
13 Louisiana is equal to or less than the cost of materials produced, manufactured,  
14 or fabricated outside Louisiana, and the materials are available to the  
15 contractor in a manner that meets the contractor's schedule for delivery of the  
16 materials to the project.

17 C. As used in this Section, the following terms shall have the following  
18 meanings:

19 (1) "Materials" means the elements, constituents, or substances of which  
20 a public work is made and that are physically incorporated into the public  
21 work.

22 (2) "Third party" means any person, partnership, association,  
23 foundation, corporation, or other legal entity that is not a public entity as  
24 defined in this Chapter.

25 D. The provisions of this Section shall apply to any contractor who bids  
26 on and constructs a building or other structure for a third party that under the  
27 terms of a memorandum of understanding or other contractual agreement with  
28 a public entity is intended to be used for a public purpose.

29 E. The provisions of this Section shall not apply where federal funding

- 1            **participation does not allow application of this Section to the contract and will**  
2            **result in the loss of such federal funding.**

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas F. Wade.

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#### DIGEST

Nevers (SB 287)

Proposed law provides for the "Louisiana Products Fair Treatment Act". Provides that a contractor submitting a bid to a public entity for a public work under the provisions of present law shall make good faith efforts to use in his bid on the work and his construction of the public work materials produced, manufactured, or fabricated in Louisiana, provided all of the following conditions are met:

1. The Louisiana materials meet bid specifications.
2. Bidders shall make a good faith effort to utilize in a public work contract material produced, manufactured, or fabricated in Louisiana. Bidders shall send written notification to a least one Louisiana firm that can provide such contract materials that meet specifications. The notification must include specifications, information about required qualifications and specifications, any bonding and insurance information and requirements, or where to acquire such information. Bidders must submit such documentation to the contracting entity prior to award of a contract. Failure to submit such documentation shall be grounds to find a bidder non-responsive.
3. The cost of the Louisiana materials is equal to or less than the cost of the materials produced, manufactured, or fabricated outside Louisiana and are available to the contractor in a manner that meets the contractor's schedule for delivery of the materials to the project.

Proposed law applies to any contractor who bids on and constructs a building or other structure for a third party that under the terms of a memorandum of understanding or other contractual agreement with a public entity is intended to be used for a public purpose.

Proposed law defines "materials" to mean the elements, constituents, or substances of which a public work can be made and that are physically incorporated into the public work.

Proposed law defines "third party" to mean any person, partnership, association, foundation, corporation, or other legal entity that is not a public entity as defined in present law.

Proposed law does not apply where federal funding participation prohibits its application to the contract and will result in the loss of such federal funding.

Effective August 1, 2012.

(Adds R.S. 38:2213.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill.

1. Requires a bidder to make a good faith effort to use materials produced, manufactured, or fabricated in Louisiana.

2. Provides that in order to meet the good faith effort requirement, bidders shall send written notification to at least one Louisiana firm that can provide materials produced, manufactured, or fabricated in Louisiana that meet bid specifications.
3. Provides that such notification must include the specifications, information about required qualifications and specifications, any bonding and insurance information and requirements, or where to acquire such information.
4. Requires bidders to submit documentation of good faith efforts prior to award of contract and that failure to provide such documentation is grounds for finding a bidder non-responsive.
5. Provides that such requirement to make good faith effort to use materials produced, manufactured, or fabricated in Louisiana does not apply where federal funding participation prohibits its application and will result in the loss of federal funds.