

HOUSE BILL 2397

By Mitchell

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5; Title 6; Title 7; Title 12 and Title 47, relative
to contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 4, is amended by adding
the following as a new part:

12-4-1101.

As used in this part:

(1) "Person" means a natural individual, corporation, firm, association,
organization, partnership, limited liability company, or business;

(2) "Public agency" means this state; its departments, agencies, boards,
commissions, and institutions; and all units and political subdivisions of this state,
including local school districts;

(3) "Public buildings and public works" means a structure, building,
highway, waterway, street, bridge, transit system, airport, or other work or
improvement, whether of a permanent or temporary nature and whether for
governmental or proprietary use, including:

(A) A railway;

(B) A street railway;

(C) A subway;

(D) A monorail passenger or passenger and rail rolling stock;

(E) A self-propelled car or gallery car;

(F) A locomotive;

(G) A passenger bus;

(H) Wires, poles, and equipment for electrification of a transit system;

(I) Rails, tracks, roadbeds, or guideways;

(J) A school or hospital; and

(K) A station, terminal, dock, or shelter for public buildings and public works; and

(4) "United States" means the geographic boundaries of the United States, including all territory, continental or insular, subject to the jurisdiction of the United States.

12-4-1102.

For purposes of this part:

(1) An iron or steel product is manufactured in the United States if the manufacturing process, except metallurgical processes involving the refinement of steel additives, takes place entirely within the United States; and

(2)

(A) A manufactured good is manufactured in the United States if every component of the good originates from the United States;

(B) For purposes of subdivision (2)(A), a component originates from the United States if all of the manufacturing processes required to make the component take place entirely within the United States, regardless of the origin of its subcomponents.

12-4-1103.

(a)

(1) Notwithstanding a law to the contrary, a public agency shall include a provision in a contract for the construction, reconstruction, alteration, repair, improvement, or maintenance of public buildings and public works that the iron, steel, and manufactured goods used or supplied in the performance of the contract must be manufactured in the United States.

(2) The head of a public agency may grant a waiver from the requirement of subdivision (a)(1), if the head of the public agency determines that:

(A) Application of the requirement is inconsistent with the public interest;

(B) The necessary material and product is not produced in the United States in sufficient and reasonably available quantity of a satisfactory quality; or

(C) Inclusion of domestic material will increase the cost of the overall project contract by more than twenty-five percent (25%).

(b) If the head of a public agency receives a request for a waiver under subdivision (a)(2), then the public agency must provide notice and an opportunity for public comment on the request at least thirty (30) days before issuing a decision approving or disapproving the waiver request. The notice required by this subsection (b) must:

(1) Include the information available to the public agency concerning the request, including which condition set forth under subdivisions (a)(2)(A)–(C) provides the basis for the waiver request; and

(2) Be provided by electronic means, including on the official website of the agency.

(c) If the head of a public agency issues a waiver under subsection (b), then the public agency must publish a document on the agency's website before the waiver takes effect, addressing the public comments received during the opportunity for public comment.

12-4-1104.

A person is ineligible to receive a contract with a public agency if it has been determined by a court, federal agency, or public agency that the person intentionally:

(1) Affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to iron, steel, or a manufactured good used in the fulfillment of a contract under this part, but not manufactured in the United States; or

(2) Represented that iron, steel, or a manufactured good used in the fulfillment of a contract under this part was manufactured in the United States if it was not.

12-4-1105.

This part must be applied in a manner consistent with the state's obligations under applicable international agreements pertaining to government procurement.

SECTION 2. If a provision of this act or its application to a person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. This act takes effect July 1, 2022, the public welfare requiring it, and applies to contracts entered into, amended, or renewed on or after that date.