

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 802

Short Title: Reciprocal Bid Preferences.

(Public)

Sponsors: House State Government Committee.

Referred to: State Government.

April 11, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE RECIPROCAL BID PREFERENCES.

3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 143 is amended by adding a new Article to read:

5 **"ARTICLE 3F.**

6 **"RECIPROCAL BID PREFERENCES.**

7 **"§ 142-64.55. Legislative findings.**

8 It is hereby determined and declared as a matter of legislative findings that:

9 (1) The award of contracts to the lowest responsible bidder generally
10 provides for the most economical procurement of goods, supplies,
11 equipment, materials, printing, and construction.

12 (2) In some cases, award to the lowest responsible bidder may not be the
13 most economical and practicable when the best interests of the State are
14 concerned.

15 (3) Some states apply a preference favoring in-State goods, supplies,
16 equipment, materials, printing, or bidders, or they apply a prohibition
17 against the use of out-of-state goods, supplies, equipment, materials,
18 printing, or bidders.

19 (4) The application of this preference or prohibition by other states
20 diminishes or eliminates opportunities for bidders and manufacturers

1 who reside in North Carolina to obtain construction or printing contracts
2 from or to sell goods, supplies, equipment, and materials to states that
3 have such a preference, thereby resulting in the loss of business for
4 resident bidders and manufacturers. Therefore, in order to offset or
5 counteract the discriminatory practices of other states, discourage other
6 states from applying a preference and ultimately to aid employment,
7 help business and industry located in North Carolina, attract new
8 business and industry to North Carolina, and provide additional tax
9 revenue both from those receiving contracts and those employed by
10 contractors, the General Assembly hereby declares that it is the policy
11 of the State to respond in like manner against those states that apply
12 preferences or prohibitions by giving a similar offsetting preference to
13 residents in North Carolina and bidders offering goods manufactured in
14 North Carolina and by prohibiting the purchase or use of certain goods,
15 supplies, equipment, printing, or materials in accordance with the
16 provisions of this section.

17 **"§ 143-64.56. Preferences for goods.**

18 All departments, boards, commissions, State authorities, or agencies of the State shall,
19 in all purchases of goods, supplies, equipment, materials, and printing exceeding the
20 amount of one thousand five hundred dollars (\$1,500), give preference to those bidders
21 offering goods, supplies, equipment, materials, or printing produced, manufactured,
22 mined, grown, or performed in North Carolina as against those bidders offering goods,
23 supplies, equipment, materials, or printing produced, manufactured, mined, grown, or
24 performed in any state that gives or requires a preference to goods, supplies, equipment,
25 materials, or printing produced, manufactured, mined, grown, or performed in that state.
26 The amount of the preference shall be equal to the amount of the preference applied by
27 the other state for that particular good, supply, equipment, material, or printing.

28 **"§ 143-64.57. Preference for bidders.**

29 (a) General Rule. – When a public contract, exceeding the amount of one thousand
30 five hundred dollars (\$1,500), is to be awarded to the lowest responsible bidder, a
31 resident bidder shall be granted a preference as against a nonresident bidder from any
32 state that gives or requires a preference to bidders from that state. The amount of the
33 preference shall be equal to the amount of the preference applied by the state of the
34 nonresident bidder.

35 (b) Definitions. – As used in this section the following words and phrases shall
36 have the meanings given to them in this subsection:

- 37 (1) 'Public contract'. – A contract for the erection, construction, alteration,
38 improvement, or repair of any public building or other public work,
39 erected, constructed, altered, improved, or repaired at the expense of the
40 State or any authority or instrumentality thereof, or the purchase or lease
41 of any goods, supplies, equipment, printing, or materials by any
42 department, board, commission, State authority, or agency of the State.

1 (2) 'Resident bidder'. – A person, partnership, corporation, or other business
2 entity authorized to transact business in North Carolina and having a
3 bona fide establishment for transacting business within North Carolina
4 at which it was transacting business on the date when bids for the public
5 contract were first solicited.

6 **"§ 143-64.58. Prohibition.**

7 In the erection, construction, alteration, improvement, or repair of any public building
8 or other public work at the expense of the State or any authority or instrumentality
9 thereof, the following prohibition shall be recognized and applied. No department, board,
10 commission, State authority, or agency of the State shall specify for, use, or purchase any
11 goods, supplies, equipment, printing, or materials which are produced, manufactured,
12 mined, grown, or performed in any state that prohibits the specification for, use, or
13 purchase of such items in or on its public buildings or other works, when such items are
14 not produced, manufactured, mined, grown, or performed in such state.

15 **"§ 143-64.59. Federal funds.**

16 The provisions of this section shall not be applicable when application of the section
17 may jeopardize the receipt of federal funds.

18 **"§ 143-64.60. List of discriminating states.**

19 The Department of Administration shall prepare a list of the states which apply a
20 preference favoring in-State goods, supplies, equipment, materials, printing, or bidders or
21 prohibiting the use of out-of-state goods, supplies, equipment, materials, printing, or
22 bidders and shall publish the list in the North Carolina Administrative Code. When a
23 state applies a new preference or prohibition, the Department of Administration shall
24 publish that information in the North Carolina Administrative Code as an addition to the
25 original list.

26 **"§ 143-64.61. Inclusion of list in bid invitations.**

27 Every department, board, commission, State authority, or agency of the State shall
28 include in all its invitations to bid for the purchase of goods, supplies, equipment,
29 materials, and printing exceeding the amount of one thousand five hundred dollars
30 (\$1,500), a list of all the states that have been found by the Department of Administration
31 to have applied a preference and the amount of the preference. All invitations to bid and
32 notices issued for the purpose of securing bids for public contracts, as defined in G.S.
33 143-64(b), as issued by any department, board, commission, State authority, or agency of
34 the State in an amount exceeding one thousand five hundred dollars (\$1,500), shall
35 include a list of all states that apply a prohibition against certain items and shall inform
36 potential bidders that they are prohibited from using goods, supplies, equipment,
37 materials, or printing from those states. If a bid discloses that the bidder is offering
38 goods, supplies, equipment, materials, or printing from a state which prohibits the use of
39 out-of-state goods, supplies, equipment, materials, or printing, the bid shall be rejected.

40 **"§ 143-64.62. Waiver.**

41 The provisions of this section may be waived when the head of the department, board,
42 commission, State authority, or agency of the State determines in writing that it is in the
43 best interests of the State."

1 Sec. 2. This act becomes effective July 1, 1995, and applies to contracts for
2 which bids or offers are solicited on or after that date.