

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 802
Committee Substitute Favorable 5/1/95

Short Title: Reciprocal Bid Preferences.

(Public)

Sponsors:

Referred to:

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 **"§ 143-64.55. Legislative findings.**

8 The General Assembly finds that some states apply a preference favoring in-State
9 goods or bidders, or they apply a prohibition against the use of out-of-State goods or
10 bidders. The application of preferences or prohibitions by other states diminishes or
11 eliminates opportunities for North Carolina manufacturers and bidders to sell to states
12 that have such a preference, thereby resulting in the loss of business for North Carolina
13 manufacturers and bidders. In order to respond to the discriminatory practices of other
14 states, discourage other states from applying preference or prohibitions, and to aid
15 employment, help businesses and industries located in North Carolina, attract new
16 business and industry to North Carolina, and provide additional tax revenue both from
17 those receiving contracts and those employed by North Carolina businesses, the General
18 Assembly hereby declares that it is the policy of the State to respond in like manner
19 against those states that apply preferences or prohibitions by giving a similar offsetting

1 preference to North Carolina goods and bidders and by prohibiting the purchase or use of
2 goods prohibited from purchase by other states in accordance with the provisions of this
3 Article.

4 **"§ 143-64.56. Definitions.**

5 The following definitions apply in this Article:

- 6 (1) Agency.– As defined in G.S. 143A-3, and in addition shall include
7 community colleges as defined in G.S. 115D-2(2) and local school
8 administrative units as defined in G.S. 115C-5(f) units.
- 9 (2) Construction.– Includes construction, repair, renovation or alteration to
10 a building or any other public work.
- 11 (3) Goods.– Includes goods, supplies, equipment, materials, printing, and
12 services, and construction goods.
- 13 (4) Manufactured.– Includes primarily assembled, mined, grown, or
14 performed, but shall not include minor changes in assembly or
15 repackaging.
- 16 (5) Public contract.– A contract for the purchase or lease of goods by an
17 agency, or for construction by an agency under Article 8 of Chapter 143
18 of the General Statutes.
- 19 (6) Resident bidder.– A person, partnership, corporation, or other business
20 entity that has:
21 a. A bona fide place of business in North Carolina;
22 b. A business street address and phone number in this State.
23 c. Paid income or unemployment taxes in this State during the 12
24 calendar months immediately preceding submission of the bid;
25 and
26 d. Paid employees in North Carolina." § 143-64.57. Reciprocal
27 preference for purchases.

28 All agencies shall, in all purchases of goods exceeding the amount of ten thousand
29 dollars (\$10,000), give a reciprocal preference to those bidders offering goods
30 manufactured in North Carolina as against those bidders offering goods manufactured in
31 any state that gives a preference to goods manufactured in that state. The amount of the
32 preference shall be equal to the amount of the preference applied by the other state for
33 that particular good.

34 **"§ 143-64.58. Reciprocal preference for bidders.**

35 When a public contract exceeding the amount of ten thousand dollars (\$10,000) is to
36 be awarded by an agency, a resident bidder shall have his or her bid reduced, for the
37 purpose of determining who is to be awarded the bid, by the amount of the preference
38 applied by the state of the nonresident bidder.

39 **"§ 143-64.59. Reciprocal prohibition on purchases and bidders.**

40 No agency may purchase a specified type of goods manufactured in a state that
41 prohibits the purchase of that type of good manufactured outside of that state by its
42 agencies. No agency may contract with a nonresident bidder from a state that prohibits
43 contracts with the same type of bidder who is not resident in that state.

44 **"§ 143-64.60. Federal funds.**

1 The provisions of this Article do not apply when application of the Article will
2 jeopardize the receipt of federal funds.

3 **"§ 143-64.61. List of discriminating states.**

4 The Department of Administration shall prepare a list of all states that apply a
5 preference favoring goods manufactured in those states or bidders resident in those states,
6 or prohibiting the use of goods manufactured in other states or bidders resident in other
7 states, and make the list available to bidders and the general public. The list shall be
8 updated at least yearly.

9 **"§ 143-64.62. Inclusion of list in request for quotes.**

10 Every agency shall include in all its requests for quotes for the purchase of goods or
11 for construction exceeding the amount of ten thousand dollars (\$10,000) a list of all the
12 states that have been found by the Department of Administration to have applied a
13 preference or a prohibition, and shall inform the bidder of the provisions of this Article.

14 **"§ 143-64.63. Waiver.**

15 The provisions of this section may be waived when the head of the agency determines
16 in writing that it is in the 'best interests of the State.' The 'best interests of the State' shall
17 include, but not be limited to, instances when appropriate goods or construction services
18 are available from only one source, or are only available for a reasonable price from one
19 source.

20 The Secretary of Administration shall adopt rules, in furtherance of the purposes of
21 this Article, defining those situations when a waiver may be allowed.

22 The head of the agency shall file written justification for any waiver with the
23 Department of Administration.

24 The Department shall file reports on implementation of this Article, including the
25 number of waivers and reasons for the waivers, with the Office of the State Auditor in the
26 manner prescribed by the State Auditor.

27 The State Auditor, as he or she deems necessary, shall analyze and report to the
28 General Assembly on compliance with this Article."

29 Sec. 2. This act becomes effective January 1, 1996, and applies to contracts for
30 which bids or requests for quotes are solicited on or after that date.