Local Government Mandate Statement Kentucky Legislative Research Commission 2020 Regular Session

Part I: Measure Information

Bill Request #: 324
Bill #: HB 114
Document ID #:
Bill Subject/Title: AN ACT relating to public procurement.
Sponsor: Representative Jeffery Donohue
Unit of Government: X City X County Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: Purchasing / Procurement
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing X Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

HB 114, the "Kentucky Buy American Act"; requires iron, steel, and manufactured goods (supplied as a primary component of a contract or subcontract in the construction or maintenance of public buildings, including schools, or public works) to be produced in Kentucky, unless the head of the governmental body in charge of the project issues a waiver.

Waivers may be issued if compliance is deemed to be inconsistent with the public interest; if the iron, steel, and manufactured goods needed are not produced in Kentucky in sufficient and reasonably available quantities or of a satisfactory quality; or if supplying iron, steel, and manufactured goods produced in Kentucky would "unreasonably" increase the cost of the overall contract. The term "unreasonable" is not defined in the proposal, thus the determination is up to the discretion of the head of the governmental unit and is subjective.

If a waiver is issued; then the subject iron, steel, and manufactured goods are to be produced in America unless a second waiver is issued under the same criteria. The construction bid or proposal openings shall be delayed, if necessary, to accommodate requests for the second

waiver.

If a local governments does not seek a waiver from the requirement to buy Kentucky or American supplies, materials, and components if lower-cost supplies, materials, and components were available from outside Kentucky or America, respectively, then, increased costs may be borne by local government due to factors including:

- 1. Firms based in Kentucky and America, already supplying materials, may charge higher prices due to the preference policy; and
- 2. Contractors may increase fees for ensuring compliance with the Kentucky Buy American Act; and
- 3. Delays may result in construction bid or proposal openings due to accommodating the request for a second waiver.

According to the 2016 Annual Survey of State and Local Governments*, Kentucky local government construction outlays in 2016, including schools and special districts was \$1,525 billion. Of this amount, supplies, materials, and components comprise 38.6% of the net value of construction work done in Kentucky (data extrapolated from the 2012 Economic Census*) and labor cost comprises 61.4%. Cost net of labor is \$588,650,000. If a waiver is not issued, a local government could potentially realize a price increase of one percent or \$5.88 million for each \$588 million increase in material cost. The one percent is provided as an example; any increase in price may be lesser or greater than one percent.

*The U.S. Census Bureau conducts a Census of Governments of all state and local government organization units every 5 years, for years ending in 2 and 7. As of the preparation date of this local mandate statement, the 2017 data needed to update these estimates has not been published. Likewise, the 2016 Annual Survey of State and Local Governments is the most recent data available.

HB 114 would have a greater impact on larger counties capable of initiating significant capital projects.

It is possible that the Kentucky Buy American Act's procurement requirements would generate additional local tax revenue to partially offset the increased costs at the aggregate level. However, localities in which the suppliers are based may differ from the localities executing the project, therefore, the additional tax revenues would not necessarily accrue to the locality bearing the cost of the project.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II, above, pertains to the bill as introduced.

Data Source(s): LRS Staff, 2012 Census of Governments, 2016 Annual Survey of State

and Local Governments

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