

3. If supplying iron, steel, aluminum, and manufactured goods produced in America would increase the cost of the overall contract by more than 10%.

The governmental body must issue a decision on a waiver request no more than seven days before the date of the bid or proposal opening. Notice of the decision must be sent immediately to the person requesting the waiver, all persons who submitted comments, and all those who indicated interest in bidding or submitting requests for proposals on the contract. The governmental body must immediately publish the decision on its website and, if issued, include a detailed justification for the waiver addressing public comments received.

Sections 3 and 4 of the Act would require specifically that all state, local governments, and local public agencies comply with the requirements of Section 1.

Sections 5 and 6 would make conforming changes to relevant statutes.

Section 7 would apply the buy American requirements to construction and maintenance of school buildings or other public works.

Sections 8 through 11 would make conforming changes to relevant statutes.

Section 12 would name Sections 1 to 3 of HB 326 the Kentucky Buy American Act.

HB 326 would have a moderate to significant negative fiscal impact on local governments. Such impact could be moderated since increasing the overall cost of a project by more than 10% is a factor a local governmental unit must consider in deciding whether to grant a waiver of the buy American requirement. Regardless whether local governments seek a waiver, if lower-cost supplies, materials, and components are available from outside America, increased costs due to the buy American requirement may be borne by local governments due to factors including:

1. Firms based in 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;
3. Construction bid or proposal openings may be delayed due to accommodating a request for a waiver. In addition, the strict notice of waiver decision requirements, response to comments, and justification for decision could increase the administrative costs to local governments of the procurement process.

For all these reasons the fiscal impact of HB 326 on local governments is anticipated to be moderate to significant, with a greater impact on larger counties and cities 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. 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.

Data Source(s): LRC Staff

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