



# 131st MAINE LEGISLATURE

LD 1983

LR 80(02)

## An Act to Establish the Maine Buy American and Build Maine Act

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: State and Local Government

Fiscal Note Required: Yes

### Fiscal Note

Potential State Mandate - Unfunded  
Potential current biennium cost increase - All Funds

|                                   | FY 2023-24 | FY 2024-25 | Projections<br>FY 2025-26 | Projections<br>FY 2026-27 |
|-----------------------------------|------------|------------|---------------------------|---------------------------|
| <b>Net Cost (Savings)</b>         |            |            |                           |                           |
| Highway Fund                      | \$0        | \$0        | \$12,197,984              | \$12,203,124              |
| <b>Appropriations/Allocations</b> |            |            |                           |                           |
| Highway Fund                      | \$0        | \$0        | \$12,197,984              | \$12,203,124              |

#### State Mandates

##### Required Activity

Requires local units of government to include a provision in procurement bids and subsequent contracts for public improvements that manufactured goods used or supplied in the performance of the contract or any subcontract to the contract must be manufactured in the United States unless a waiver is received or certain exceptions are met.

##### Unit Affected

Counties  
Municipalities  
Schools

##### Local Cost

Significant  
statewide

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

#### Fiscal Detail and Notes

The Department of Administrative and Financial Services (DAFS) has indicated it will require additional positions to review all contracts and to implement and enforce a waiver process. The annual costs for 2 Procurement Analyst I positions and 2 Planning and Research Associate I positions would be approximately \$380,000 starting in fiscal year 2024-25. As the bill requires DAFS administer the provisions of the bill within existing resources, no funding for positions is included. What this may mean to DAFS cannot be determined at this time.

The Department of Transportation (DOT) anticipates increased project construction costs as a result of decreased competition from out-of-state contractors and in-state contractors who choose not to bid because of the additional requirements and administrative costs associated with compliance with the requirements. The DOT will require a Highway Fund allocation of \$11,750,000 for All Other and Capital Expenditures funding beginning in fiscal year 2025-26 to cover these increased costs and another \$447,984 for 2 EEO Program Analyst positions and 2 Procurement Analyst/Technician positions to implement, administer and ensure compliance with the Maine Buy American and Build Maine Act. It is noted that the original bill, which excluded DOT from its provisions, required DAFS to administer the bill within its existing resources. The committee amendment removed the exclusion of DOT from the bill but did not add DOT to the language requiring administration within existing resources. If the intent is that both DAFS and DOT implement the bill within existing resources, it is most likely to require a reduction or postponement of projects anticipated to be undertaken in order to remain within budgeted resources.

Requiring all procurement bids and subsequent contracts to contain a provision that the manufactured goods be manufactured in the United States could increase costs to all state and other public agencies, including higher educational institutions, county and municipal units of government and local school administrative units, if contracted goods currently manufactured by non-United States sources are less expensive than those manufactured in the United States and a waiver is not granted. The provision of the bill that provides for the Office of the Attorney General, upon request within a 30 day period of contract award, to investigate and mediate grievances of in-state contractors may increase costs to the Office.