



AGC MAINE

THE CONSTRUCTION ASSOCIATION

Testimony of Matt Marks Against LD 1983

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

Joint Committee on State and Local Government

Tuesday, February 27, 2024

Senator Nangle, Representative Stover, and distinguished members of the Joint Select Committee on State and Local Government, my name is Matt Marks, I am a Principal at Cornerstone Government Affairs and here on behalf of AGC Maine to testify against LD 1983.

AGC Maine is a commercial construction trade association chartered in 1951 with AGC America. The association membership includes contractors, suppliers, and service providers. The Chapter offers continuing education, apprenticeship training, regulatory assistance, and safety training.

The complexities in this bill will have a ripple effect within a market that has worked through very challenging situations in recent years including the pandemic, economic recovery, and rebuilding a workforce that lost ~10,000 skilled workers during the recession. It's important to consider the current situation, where Maine contractors compete against out-of-state bidders and predominantly win projects in Maine and elsewhere, therefore we do not believe this advantage is needed and it will have a negative impact. Below we've listed some of our concerns:

- The Buy America provisions in this bill exceed the current federal requirements, which are already difficult to manage. AGC Maine believes purchasing decisions based on imports should be debated nationally, not state by state or regionally. The construction supply chain is already constrained, and while better today than during the pandemic, rural states like Maine have additional logistical challenges. In a recent survey of AGC America members, 93% of contractors expressed concerns about the material supply chain. This proposal will add to delays in critical infrastructure.
- Oversight of material purchases requires a substantial investment to manage and regulate for the project owner and contractors. Frequently this is a paperwork exercise, where contractors and agencies require multiple communications to determine the materials can only be sourced internationally. Those waivers, reviews, and compliance checks will need additional staff.
- Construction projects can involve thousands of products, that's especially true for vertical construction. Since it appears that BGS will be charged with direct supervisor, or perhaps delegated supervision, the number of new hires will be substantial.

- The Build Maine portion of this bill assumes there is a need to correct an imbalance in the market. However, Maine contractors are competitive bidders securing the majority of contracts. We believe this will create a disadvantage for Maine contractors who work outside of Maine in states where reciprocity triggers the same bidding requirements.
- The alteration to the procurement process is problematic. It will create delays beyond the 30-day waiting period as agencies who are equipped, qualified, and experienced in bidding work will be required to engage with BGS which is woefully understaffed to handle the influx of new work. Additionally, it doesn't add a concrete benefit to the construction process.
- Construction firms have specialty trades, and this bill will disrupt securing some services that are essential to building Maine's infrastructure by adding the new local hire component.
- While the industry has met the pre-recession employment numbers, the continued demand and aging workforce will not be bolstered by the new limiting proposal. There are many union and non-union firms that bid work and eventually establish a Maine presence and while this bill might be seen as encouraging for bidding purposes, it's more likely it will discourage the time and cost to bid into the public market. That is problematic as both private and public project owners work tirelessly to encourage additional bidders.
- AGC Maine has union and open shop contractors within the membership. The provision that allows for an affiliation with a local union hall provides an unfair advantage and doesn't accelerate, but instead complicate, the local hiring provision.
- AGC Maine operates an apprenticeship program and advocates for adoption. However, the decision of procurement based on apprenticeship is not indicative of the firm's capacity or experience. It shouldn't be the final qualifying component of a bidding decision and could result in legal challenges.,
- When the private sector is strong and building here the public sector will have a noticeable decrease in bidders because of the additional burden and because of the additional compliance, yielding little results in the field, this policy will reduce the number of bidders creating a more difficult scenario. Today it is not uncommon to have fewer than three bidders on public projects.

The primary purpose of both policies is to support local businesses. However, policies should consider the impact this has on the same companies it intends to assist. Maine is not in a strategic position to shift national purchasing because of our volume in the global economy. This will result in higher construction costs, market disruption, and a beleaguered procurement process that is likely to see legal challenges and reduced bidders. While we appreciate the faith in Maine-based companies and the intention of supporting additional American-made products we respectfully ask the Committee to reject this bill. Thank you for considering my comments, I am happy to answer any questions.