

Assembly Bill No. 1097

CHAPTER 405

An act to add Section 14031.1 to the Government Code, relating to transit.

[Approved by Governor October 2, 2011. Filed with
Secretary of State October 2, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1097, Skinner. Transit projects: domestic content.

Existing law provides various sources of funding for transit projects.

This bill would specifically authorize the state or a local agency, relative to the use of federal funds for transit purposes, to provide a bidding preference to a bidder if the bidder exceeds Buy America requirements applicable to federally funded transit projects, as specified.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) American manufacturing has been declining over the past several years with jobs going overseas due to tax and other policies, with predictable economic consequences. The federal "Buy America" laws were passed as one means to address this concern.

(b) Public transit agencies in the state and nation continue to provide critical transportation services to citizens, and remain critical components for state and national goals to alleviate highway gridlock, air pollution, and greenhouse gas emissions.

(c) Funding for public transit has continued to decline in difficult economic times, and it remains difficult to keep public transit systems in good repair, including maintaining and replacing rail vehicles.

(d) Federal "Buy America" laws applicable to rolling stock, including rail vehicles, require that the cost of components and subcomponents produced in the United States total at least 60 percent of the cost of all components in the rolling stock, and that final assembly of the rolling stock occur in the United States (49 U.S.C. Sec. 5323(j)(2)(C)).

(e) Federal "Buy America" regulations allow states to impose contracting preference provisions based on more stringent domestic content requirements than those set forth in the federal law, but the Federal Transit Administration (FTA) will not participate in the funding of state and local contracts with those preference provisions if they are not explicitly set out under state law (49 C.F.R. 661.21). The State of California currently has no such preference law.

(f) It is in the best interest of the State of California, as well as the manufacturers across the nation, to authorize state and local agencies to give preferences to bidders on rolling stock contracts that provide domestic content above the minimum requirements set forth in federal “Buy America” laws. Each state and local agency should have the discretion to apply those preferences.

SEC. 2. Section 14031.1 is added to the Government Code, to read:

14031.1. In accordance with federal regulation (49 C.F.R. 661.21), the state or a local agency, relative to the use of federal funds for transit purposes, shall be authorized to provide a bidding preference to a bidder if the bidder exceeds Buy America requirements applicable to federally funded transit projects. The state and each local agency shall have the discretion to apply those preferences. The Department of General Services shall have the sole authority to establish policies and procedures for use of this section by state agencies, as defined in Section 11000.