

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 1840** Session of  
2012

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INTRODUCED BY BEAR, AUMENT, BOYD, CREIGHTON, CUTLER, DALEY,  
FLECK, GEIST, GROVE, HALUSKA, HESS, HORNAMAN, KAUFFMAN, MOUL,  
MURT, PASHINSKI, PETRARCA, RAPP, READSHAW, VULAKOVICH AND  
SIMMONS, MAY 14, 2012

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AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 2012

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## AN ACT

1 Amending the act of March 3, 1978 (P.L.6, No.3), entitled "An  
2 act to promote the general welfare and stimulate the economy  
3 of the Commonwealth by requiring that all public bodies,  
4 including the Commonwealth, its political subdivisions, and  
5 all authorities, include in all contracts for construction,  
6 reconstruction, alteration, repair, improvement or  
7 maintenance of improvements of a permanent or temporary  
8 nature, a provision that if any steel products are to be used  
9 in the performance of the contract only steel products  
10 produced in the United States shall be used, and imposing  
11 liability for violation of this act," further providing for  
12 required contract provisions.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Section 4 of the act of March 3, 1978 (P.L.6,  
16 No.3), known as the Steel Products Procurement Act, is amended  
17 to read:

18 Section 4. (a) Every public agency shall require that every  
19 contract document for the construction, reconstruction,  
20 alteration, repair, improvement or maintenance of public works  
21 contain a provision that, if any steel products are to be used

1 or supplied in the performance of the contract, only steel  
2 products as herein defined shall be used or supplied in the  
3 performance of the contract or any subcontracts thereunder.

4 (b) This section shall not apply in any case [where]: ←

5 (1) WHERE the head of the public agency, in writing, ←  
6 determines that steel products as herein defined are not  
7 produced in the United States in sufficient quantities to meet  
8 the requirements of the contract[.]; OR ←

9 (2) TO ITEMS ON a list of exempt MACHINERY AND EQUIPMENT ←  
10 steel products, which ~~has~~ HAVE been identified by the Department ←  
11 of General Services as not produced in the United States in  
12 sufficient quantities in the previous calendar year, ~~is~~ AND ←  
13 published on the department's PUBLICLY ACCESSIBLE Internet ←  
14 website, which contractors, subcontractors, suppliers, bidders,  
15 offerors and public agencies can rely upon in preparing bids and  
16 contracts. The list of exempt MACHINERY AND EQUIPMENT STEEL ←  
17 products shall be updated annually on a date selected by the  
18 Department of General Services. The Department of General  
19 Services may not make changes to the list during the year  
20 following publication. PRIOR TO PUBLICATION ON THE INTERNET ←  
21 WEBSITE, AND IN EACH SUBSEQUENT YEAR, THE DEPARTMENT OF GENERAL  
22 SERVICES SHALL PUBLISH THE LIST OF EXEMPT MACHINERY AND  
23 EQUIPMENT STEEL PRODUCTS IN THE PENNSYLVANIA BULLETIN AND  
24 PROVIDE FOR A 30-DAY PUBLIC COMMENT PERIOD. THE DEPARTMENT OF  
25 GENERAL SERVICES SHALL, THROUGH A STATEMENT OF POLICY, ESTABLISH  
26 A PROCESS FOR CREATING THE LIST OF EXEMPT MACHINERY AND  
27 EQUIPMENT STEEL PRODUCTS AND RESOLVING DISPUTES WITH RESPECT TO  
28 ITEMS ON THE LIST RAISED DURING THE PUBLIC COMMENT PERIOD PRIOR  
29 TO THE PUBLICATION OF THE INTERNET WEBSITE. THE PROVISIONS OF 2  
30 PA.C.S. CH. 5 SUBCH. A (RELATING TO PRACTICE AND PROCEDURE OF

1 COMMONWEALTH AGENCIES) SHALL NOT APPLY TO THIS SECTION.

2 ~~(c) The General Assembly under section 11 of Article I of~~ ←  
3 ~~the Constitution of Pennsylvania reaffirms sovereign immunity,~~  
4 ~~and no provision of this section shall constitute a waiver of~~  
5 ~~sovereign immunity for the purpose of 1 Pa.C.S. § 2310 (relating~~  
6 ~~to sovereign immunity reaffirmed; specific waiver) or otherwise.~~

7 Section 2. This act shall take effect in 60 days.