



May 29, 2014

The Honorable Stephen M. Sweeney  
The Honorable Kevin O'Toole  
New Jersey Senate, P.O. Box 099  
Trenton, NJ 08625-0099

**RE: Senate Bill 1811 – Procurement and Purchase of “American Goods”**

**ITAPS Position:** Oppose unless amended to exempt Information and Communications Technology Products

Dear Senators Sweeney and O'Toole:

On behalf of the IT Alliance for Public Sector (ITAPS)<sup>1</sup>, we are writing to register our concerns with Senate Bill 1811. In short, SB 1811 proposes to require state agencies, local jurisdictions, boards of education and institutions of higher learning to only fulfill contracts with products manufactured in the United States.

While we share the goal of the legislation – namely to promote job and economic growth in New Jersey and in the United States as a whole by promoting domestic manufacturing – we have concerns regarding the unintended consequences that this legislation will have on the availability of information and communications technology products (ICT) for the State of New Jersey. Because the ICT industry is a globally-based market sector, with global supply lines, sources of production and consumers, limiting sources of contract fulfillment to domestically produced items would unnecessarily limit access to the most innovative technologies for all of New Jersey's public needs. For this reason, we respectfully request an amendment to acknowledge the global nature of ICT products by clarifying that all “INFORMATION AND COMMUNICATIONS TECHNOLOGY PRODUCTS” be excluded from the purview of this legislation. Such an exemption would be consistent with the federal Buy American Act after recognition by the U.S. Congress that the information technology marketplace has become international in scope. See [48 C.F.R. 25.103\(e\)](#)

The global nature of ICT products makes compliance under the provisions of SB 1811 impractical and unworkable and will be prohibitively costly for New Jersey and its taxpayers to implement. Because the vast majority of ICT products are globally manufactured, they would either become unavailable to state and local jurisdictions or require a specific waiver to acquire. A sampling of ICT products critical to the provision of services to the citizens of New Jersey that would not be compliant includes: almost all

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<sup>1</sup> **About the IT Alliance for Public Sector (ITAPS):** As a division of ITI, ITAPS is an alliance of leading technology companies offering the latest innovations and solutions to public sector markets. With a focus on the Federal, state and local levels of government, as well as on educational institutions, the ITAPS team advocates for improved procurement policies and practices, while identifying business development opportunities and sharing market intelligence with our industry participants.

1101 K Street, NW, Ste. 610  
Washington, DC 20005  
202.737.888  
[www.itic.org](http://www.itic.org)

handheld devices and the infrastructure that enables them, all flat panel screens and displays and most computer servers, laptops, desktops and their components. Many other ICT products would not conform because at least some of their components are globally sourced. All of these items would be excluded from acquisition by the state in this legislation.

We recognize that SB 1811 provides for two exceptions to the requirement of American manufactured products. One waiver allows for products that are not manufactured in the United States in reasonably available quantities and another takes into consideration the unreasonable cost of buying products manufactured in the United States, setting forth a presumption of unreasonableness for products manufactured in the United States that cost 25% above the fair market value for such products. These waivers, however, will not reasonably meet the information and communication technology needs of state agencies and local jurisdictions. The process to obtain a waiver will be burdensome at best -- requiring public notice, a 30-day comment period, a detailed justification for the waiver and responses to the public comment before a waiver can be effective. These requirements will add delays and increase costs in New Jersey's state procurement process, inhibit the ability to meet constituent needs and increase the financial burden on taxpayers.

While well-intended, this bill will only serve to complicate and delay an already protracted procurement process for the State of New Jersey, its political subdivisions and universities. More importantly, it will increase the cost of procuring ICT products that are critical to providing a more efficient and cost-effective government and the capabilities and constituent services necessary for the citizens of New Jersey. We respectfully request that the bill be amended to reflect these concerns.

We appreciate the opportunity to share our concerns. If we can provide you additional materials or information, please contact me at [chenton@itic.org](mailto:chenton@itic.org) or 650-544-7563 or Beth Winters at [bwinters@itic.org](mailto:bwinters@itic.org) or 717-574-6644. We look forward to working with you.

Respectfully submitted,



Carol Henton  
Vice President, State, Local and Education, Public Sector  
Information Technology Alliance for Public Sector (ITAPS)  
Division of the Information Technology Industry Council  
Offices in Washington, DC and Silicon Valley, CA



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Washington, DC 20005  
202.737.8888  
[www.itic.org](http://www.itic.org)