Understanding the Berry Amendment

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The stimulus package, the American Recovery and Reinvestment Act (H.R. 1), included legislation offered by North Carolina Congressman Larry Kissell mandating that any textile and apparel products contracted by the U.S. Department of Homeland Security (DHS) be manufactured in the United States with 100 percent U.S. inputs. This mandate, known as the Berry Amendment, first was applied to the U.S. Department of Defense beginning in 1941.

The Kissell Amendment would extend Berry to cover U.S. Coast Guard and Transportation Security Administration (TSA) procurement of textile and apparel products. DHS could waive the Berry requirements if the specific item is not produced in the U.S. or cannot be procured in a reasonable time at a reasonable cost. The Kissell Amendment also requires DHS to apply these provisions in a manner consistent with international agreements signed by the United States.

The reason that the Kissell Amendment provisions would extend only to TSA and the Coast Guard—and not other DHS agencies—is that the U.S. government is a signatory to the WTO Agreement on Government Procurement (GPA), which prohibits Berry-type provisions. The United States has the option to exempt agencies critical to national security from the GPA, but has chosen to exempt only the Coast Guard and TSA within DHS. Nevertheless, The Berry Amendment Extension Act would also allow the Obama administration to apply the Berry Amendment to other agencies within DHS (Customs and Border Protection, Secret Service, FEMA, and Citizenship and Immigrations Services) should the U.S government choose to exercise its discretion and also exempt them from the GPA. The stimulus package also contained language that would require that all iron, steel and manufactured goods used in public works funded by the stimulus be made in the United States, unless an existing U.S. trade agreement obligation would allow contract bidders to use foreign-made products. This provision will benefit the industry in the U.S. because a substantial amount of geosynthetics and other textile products are used in highway, mass transit and other public works construction projects.

The U.S. textile and apparel sector has been hit particularly hard by the economic downturn, with 60,000 jobs lost during the past 12 months. In the past year, 42 textile plants have closed, including 14 in North Carolina, 10 in South Carolina, four in Georgia, seven in Alabama, and seven in Virginia.

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