

1-1 By: Creighton S.B. No. 1289
 1-2 (In the Senate - Filed March 3, 2017; March 13, 2017, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 May 1, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; May 1, 2017, sent
 1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1289 By: Creighton

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the purchase of iron and steel products made in the
 1-22 United States for certain governmental entity projects.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 2252, Government Code, is amended by
 1-25 adding Subchapter F to read as follows:

1-26 SUBCHAPTER F. CERTAIN CONSTRUCTION AND INSTALLATION PROJECTS

1-27 Sec. 2252.201. DEFINITIONS. In this subchapter:

1-28 (1) "Governmental entity" means this state or a board,
 1-29 commission, department, office, or other agency in the executive
 1-30 branch of state government. The term does not include a political
 1-31 subdivision.

1-32 (2) "Manufacturing process" means the application of a
 1-33 process to alter the form or function of materials or elements of a
 1-34 product in a manner that adds value and transforms the materials or
 1-35 elements into a new finished product that is functionally different
 1-36 from a finished product produced merely from assembling the
 1-37 materials or elements into a product.

1-38 (3) "Political subdivision" includes a county,
 1-39 municipality, municipal utility district, water control and
 1-40 improvement district, special utility district, and other types of
 1-41 water district.

1-42 (4) "Produced in the United States" means, with
 1-43 respect to iron and steel products, a product for which all
 1-44 manufacturing processes, from initial melting through application
 1-45 of coatings, occur in the United States, other than metallurgical
 1-46 processes to refine steel additives.

1-47 (5) "Project" means a contract between a governmental
 1-48 entity and another person, including a political subdivision, to:

1-49 (A) construct, remodel, or alter a building, a
 1-50 structure, or infrastructure;

1-51 (B) supply a material for a project described by
 1-52 Paragraph (A); or

1-53 (C) finance, refinance, or provide money from
 1-54 funds administered by a governmental entity for a project described
 1-55 by Paragraph (A).

1-56 Sec. 2252.202. UNIFORM PURCHASING CONDITION; RULES.

1-57 (a) Except as provided by Section 2252.203, the uniform general
 1-58 conditions for a project in which iron or steel products will be
 1-59 used must require that the bid documents provided to all bidders and
 1-60 the contract include a requirement that any iron or steel product

2-1 used in the project be produced in the United States.

2-2 (b) A governmental entity subject to the requirements for a

2-3 project described by Subsection (a) shall adopt rules to promote

2-4 compliance with this section.

2-5 Sec. 2252.203. EXEMPTIONS. (a) Section 2252.202 does not

2-6 apply to a project for which the governing body of the governmental

2-7 entity responsible for the project determines that:

2-8 (1) iron or steel products produced in the United

2-9 States are not:

2-10 (A) produced in sufficient quantities;

2-11 (B) reasonably available; or

2-12 (C) of a satisfactory quality;

2-13 (2) use of iron or steel products produced in the

2-14 United States will increase the total cost of the project by more

2-15 than 20 percent; or

2-16 (3) complying with that section is inconsistent with

2-17 the public interest.

2-18 (b) Electrical components, equipment, systems, and

2-19 appurtenances, including supports, covers, shielding, and other

2-20 appurtenances related to an electrical system, necessary for

2-21 operation or concealment are not considered to be iron or steel

2-22 products and are exempt from the requirements of Section 2252.202.

2-23 An electrical system includes all equipment, facilities, and assets

2-24 owned by an electric utility, as that term is defined in Section

2-25 31.002, Utilities Code.

2-26 (c) Section 2252.202 does not apply to a contract subject to

2-27 Section 223.045, Transportation Code, or 23 C.F.R. Section 635.410.

2-28 Sec. 2252.204. INTERNATIONAL AGREEMENTS. This subchapter

2-29 shall be applied in a manner consistent with this state's

2-30 obligations under any international agreement.

2-31 Sec. 2252.205. CONFLICT OF LAW. To the extent of any

2-32 conflict or inconsistency, this subchapter prevails over any other

2-33 state law relating to the use of iron and steel products in projects

2-34 directly funded by a governmental entity or financed by funds

2-35 administered by a governmental entity.

2-36 SECTION 2. Section 223.045, Transportation Code, is amended

2-37 to read as follows:

2-38 Sec. 223.045. IRON AND STEEL PREFERENCE PROVISIONS IN

2-39 IMPROVEMENT CONTRACTS. A contract awarded by the department for

2-40 the improvement of the state highway system without federal aid

2-41 must contain the same preference provisions for iron and steel and

2-42 iron and steel products that are required under federal law for an

2-43 improvement made with federal aid.

2-44 SECTION 3. Section 17.183(a), Water Code, is amended to

2-45 read as follows:

2-46 (a) The governing body of each political subdivision

2-47 receiving financial assistance from the board shall require in all

2-48 contracts for the construction of a project:

2-49 (1) that each bidder furnish a bid guarantee

2-50 equivalent to five percent of the bid price;

2-51 (2) that each contractor awarded a construction

2-52 contract furnish performance and payment bonds:

2-53 (A) the performance bond shall include without

2-54 limitation guarantees that work done under the contract will be

2-55 completed and performed according to approved plans and

2-56 specifications and in accordance with sound construction

2-57 principles and practices; and

2-58 (B) the performance and payment bonds shall be in

2-59 a penal sum of not less than 100 percent of the contract price and

2-60 remain in effect for one year beyond the date of approval by the

2-61 engineer of the political subdivision;

2-62 (3) that payment be made in partial payments as the

2-63 work progresses;

2-64 (4) that each partial payment shall not exceed 95

2-65 percent of the amount due at the time of the payment as shown by the

2-66 engineer of the project, but, if the project is substantially

2-67 complete, a partial release of the five percent retainage may be

2-68 made by the political subdivision with approval of the executive

2-69 administrator;

3-1 (5) that payment of the retainage remaining due upon
3-2 completion of the contract shall be made only after:

3-3 (A) approval by the engineer for the political
3-4 subdivision as required under the bond proceedings;

3-5 (B) approval by the governing body of the
3-6 political subdivision by a resolution or other formal action; and

3-7 (C) certification by the executive administrator
3-8 in accordance with the rules of the board that the work to be done
3-9 under the contract has been completed and performed in a
3-10 satisfactory manner and in accordance with approved plans and
3-11 specifications;

3-12 (6) that no valid approval may be granted unless the
3-13 work done under the contract has been completed and performed in a
3-14 satisfactory manner according to approved plans and
3-15 specifications;

3-16 (7) that, if a political subdivision receiving
3-17 financial assistance under Subchapter K of this chapter, labor from
3-18 inside the political subdivision be used to the extent possible;
3-19 and

3-20 (8) that the contract include a requirement that iron
3-21 and steel products [~~and manufactured goods~~] used in the project be
3-22 produced in the United States, unless:

- 3-23 (A) such products [~~or goods~~] are not:
 - 3-24 (i) available in sufficient quantities;
 - 3-25 (ii) readily available; or
 - 3-26 (iii) of a satisfactory quality; or
- 3-27 (B) the use of such products [~~or goods~~] will
3-28 increase the total cost of the project by more than 20 percent.

3-29 SECTION 4. Section 17.183(c)(4), Water Code, is amended to
3-30 read as follows:

3-31 (4) "Produced in the United States" means[+
3-32 [~~(A)~~] in the case of iron and steel products,
3-33 products for which all manufacturing processes, from initial
3-34 melting through application of coatings, take place in the United
3-35 States, except metallurgical processes that involve the refinement
3-36 of steel additives[+, and

3-37 [~~(B) in the case of a manufactured good, a good
3-38 for which:~~

3-39 [~~(i) all of the manufacturing process that
3-40 produced the manufactured good takes place in the United States,
3-41 and~~

3-42 [~~(ii) more than 60 percent of the
3-43 components of the manufactured good, by cost, originate in the
3-44 United States~~].

3-45 SECTION 5. Sections 17.183(c)(1) and (2) and (d), Water
3-46 Code, are repealed.

3-47 SECTION 6. (a) Subchapter F, Chapter 2252, Government Code,
3-48 as added by this Act, applies only to bid documents submitted or
3-49 contracts entered into on or after the effective date of this Act.

3-50 (b) Subchapter F, Chapter 2252, Government Code, as added by
3-51 this Act, does not apply to a project as described by Section 15.432
3-52 or 15.472, Water Code, that the Texas Water Development Board has
3-53 formally approved for financial assistance before the effective
3-54 date of this Act.

3-55 SECTION 7. This Act takes effect September 1, 2017.

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