

By: Perry

S.B. No. 1416

A BILL TO BE ENTITLED

AN ACT

relating to the requirements for construction contracts for certain water supply projects, treatment works, and flood control measures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 17.183, Water Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsection (f) to read as follows:

(a) The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds that meet the following requirements:

(A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision;

1 (3) that payment be made in partial payments as the
2 work progresses;

3 (4) that each partial payment shall not exceed 95
4 percent of the amount due at the time of the payment as shown by the
5 engineer of the project, but, if the project is substantially
6 complete, a partial release of the five percent retainage may be
7 made by the political subdivision with approval of the executive
8 administrator;

9 (5) that payment of the retainage remaining due upon
10 completion of the contract shall be made only after:

11 (A) approval by the engineer for the political
12 subdivision as required under the bond proceedings;

13 (B) approval by the governing body of the
14 political subdivision by a resolution or other formal action; and

15 (C) certification by the executive administrator
16 in accordance with the rules of the board that the work to be done
17 under the contract has been completed and performed in a
18 satisfactory manner and in accordance with approved plans and
19 specifications;

20 (6) that no valid approval may be granted unless the
21 work done under the contract has been completed and performed in a
22 satisfactory manner according to approved plans and
23 specifications;

24 (7) that, if a political subdivision receiving
25 financial assistance under Subchapter K of this chapter, labor from
26 inside the political subdivision be used to the extent possible;
27 and

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

4 (A) such products [~~or goods~~] are not:

5 (i) available in sufficient quantities;

6 (ii) readily available; or

7 (iii) of a satisfactory quality; [~~or~~]

8 (B) the use of such products [~~or goods~~] will
9 increase the total cost of the project by more than 20 percent; or

10 (C) the use of iron and steel products that are
11 not produced in the United States is incidental or de minimis and:

12 (i) the cost of each individual iron or
13 steel product used in the project that is not produced in the United
14 States does not exceed one percent of the total cost of the
15 materials incorporated into the project; and

16 (ii) the cost of all iron and steel products
17 used in the project that are not produced in the United States does
18 not exceed five percent of the total cost of the materials
19 incorporated into the project.

20 (b) Plans and specifications submitted to the board in
21 connection with an application for financial assistance must
22 include a seal by a licensed engineer affirming that the plans and
23 specifications:

24 (1) are consistent with the requirement regarding the
25 use of iron and steel products under Subsection (a)(8); and

26 (2) conform to current industry design and
27 construction standards.

1 (c) For the purposes of Subsection [~~Subsections~~] (a)(8)
2 [~~and (d)~~]:

3 (1) "Iron and steel products" means iron and steel
4 products produced as the result of a manufacturing process and:

5 (A) includes lined or unlined pipes or fittings,
6 carbon steel fasteners, manhole covers, municipal castings,
7 hydrant tanks, flanges, pipe clamps and restraints, valves,
8 structural steel, and reinforced precast concrete; and

9 (B) does not include mechanical or electrical
10 components, equipment, controls, or systems or necessary
11 appurtenances of such components, equipment, controls, or systems
12 used to process or treat water [~~"Component" means any article,~~
13 ~~material, or supply, whether a manufactured good or raw material,~~
14 ~~that is directly incorporated into a manufactured good~~].

15 (2) [~~"Manufactured good" means an item produced as the~~
16 ~~result of a manufacturing process.~~

17 [~~(3)~~] "Manufacturing process" means the application
18 of a process to alter the form or function of materials or elements
19 of a product in a manner that adds value and transforms the
20 materials or elements so that a new end product is produced that is
21 functionally different from the product that would result from
22 simple assembly of the materials or elements.

23 (3) [(4)] "Produced in the United States" means[+]

24 [(A) ~~in the case of~~] iron and steel products[~~r~~
25 ~~products~~] for which:

26 (A) all manufacturing processes, from initial
27 melting through application of coatings, take place in the United

1 States, except metallurgical processes that involve the refinement
2 of steel additives; and

3 (B) at least 50 [~~in the case of a manufactured~~
4 ~~good, a good for which:~~

5 [~~(i) all of the manufacturing process that~~
6 ~~produced the manufactured good takes place in the United States,~~
7 ~~and~~

8 [~~(ii) more than 60~~] percent of the
9 materials [~~components of the manufactured good~~], by cost, originate
10 in the United States.

11 (d) For the purposes of Subsection (c)(3)(B)
12 [~~(c)(4)(B)(ii), if a component originates in the United States~~],
13 the entire cost of the materials [~~that component~~] contributes to
14 the determination of whether the iron and steel products are
15 produced [~~the percentage of the components of the manufactured good~~
16 ~~that originate~~] in the United States.

17 (f) The board shall adopt rules to:

18 (1) promote compliance with the requirements of this
19 section; and

20 (2) establish and administer a system that allows for
21 the waiver of the requirements of this section as necessary.

22 SECTION 2. Section [17.183](#), Water Code, as amended by this
23 Act, applies only to a contract entered into on or after the
24 effective date of this Act. A contract entered into before the
25 effective date of this Act is governed by the law in effect when the
26 contract was entered into, and the former law is continued in effect
27 for that purpose.

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2017.