

BILL ANALYSIS

Senate Research Center

S.B. 1289
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Iron and steel manufacturing facilities have closed in Texas, and we will continue to lose iron and steel manufacturing jobs. The reason is because foreign countries, like China and Turkey, subsidize their iron and steel manufacturing, circumvent our trade laws, and flood the United States (U.S.) with cheap iron and steel. Texas-based iron and steel manufacturers cannot compete with foreign countries who have a proven track record of environmental and human rights violations. Until the U.S. aggressively enforces our federal trade laws, Texas must act to level the playing field or risk losing more iron and steel manufacturing jobs.

The definition of "governmental entity" applies only to state agencies. It does not include county or municipal government facilities, public school buildings, or institutions of higher education.

The intent is to apply only to the iron or steel that is permanently incorporated into infrastructure projects. Examples are corrugated steel used for bridges and roads or beams for buildings and facilities.

S.B. 1289 addresses the opposition to similar legislation filed in past legislative sessions.

- S.B. 1289 refers to iron and steel products manufactured in the U.S.
- S.B. 1289 does not include manufactured goods.
- S.B. 1289 exempts electrical components, equipment, systems, and appurtenances necessary for their operation.

S.B. 1289 should not increase the cost of state buildings or infrastructure and does not eliminate competition. The contractors, distributors, fabricators, and manufacturers still have to compete for the infrastructure projects. The state agencies award contracts based on lowest price or best value. (Original Author's / Sponsor's Statement of Intent)

S.B. 1289 amends current law relating to the purchase of iron and steel products made in the United States for certain governmental entity projects.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to a certain governmental entity in SECTION 1 (Section 2252.202, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2252, Government Code, by adding Subchapter F, as follows:

SUBCHAPTER F. CERTAIN CONSTRUCTION AND INSTALLATION PROJECTS

Sec. 2252.201. DEFINITIONS. Defines "governmental entity," "manufacturing process," "political subdivision," "produced in the United States," and "project."

Sec. 2252.202. UNIFORM PURCHASING CONDITION; RULES. (a) Requires that the uniform general conditions for a project in which iron or steel products will be used, except as provided by Section 2252.203, require that the bid documents provided to all bidders and the contract include a requirement that any iron or steel product produced through a manufacturing process and used in the project be produced in the United States.

(b) Requires a governmental entity subject to the requirements for a project described by Subsection (a) to adopt rules to promote compliance with this section.

Sec. 2252.205. REPORT. (a) Requires the Texas Water Development Board (TWDB), not later than December 1, 2018, to electronically submit to the state auditor a report on all contracts for construction of a project that received financial assistance under Chapter 15 (Texas Water Assistance Program), 16 (Provisions Generally Applicable to Water Development), or 17 (Public Funding), Water Code, during the state fiscal year ending August 31, 2017. Requires that the report include certain information.

(b) Requires the state auditor to prepare a summary on the report submitted under Subsection (a) and electronically submit the summary to the legislature not later than January 1, 2019.

(c) Provides that this section expires September 1, 2019.

Sec. 2252.203. EXEMPTIONS. (a) Provides that Section 2252.202 does not apply to a project for which the governing body of the governmental entity responsible for the project determines that iron or steel products produced in the United States are not produced in sufficient quantities, reasonably available, or of a satisfactory quality, or use of iron or steel products produced in the United States will increase the total cost of the project by more than 20 percent, or complying with that section is inconsistent with the public interest.

(b) Provides that electrical components, equipment, systems, and appurtenances, including supports, covers, shielding, and other appurtenances related to an electrical system, necessary for operation or concealment are not considered to be iron or steel products and are exempt from the requirements of Section 2252.202. Provides that an electrical system includes certain items.

(c) Provides that Section 2252.202 does not apply to a contract subject to Section 223.045, Transportation Code, or 23 C.F.R. Section 635.410.

Sec. 2252.204. INTERNATIONAL AGREEMENTS. Requires that this subchapter be applied in a manner consistent with this state's obligations under any international agreement.

Sec. 2252.205. CONFLICT OF LAW. Provides that to the extent of any conflict or inconsistency, this subchapter prevails over any other state law relating to the use of iron and steel products in projects directly funded by a governmental entity or financed by funds administered by a governmental entity.

SECTION 2. Amends Section 223.045, Transportation Code, as follows:

Sec. 223.045. New heading: IRON AND STEEL PREFERENCE PROVISIONS IN IMPROVEMENT CONTRACTS. Requires that a contract awarded by the Texas Department of Transportation for the improvement of the state highway system without federal aid contain the same preference provisions for iron and steel and iron and steel products, rather than for steel and steel products, that are required under federal law for an improvement made with federal aid.

SECTION 3. Amends Section 17.183(a), Water Code, as follows:

(a) Requires the governing body of each political subdivision receiving financial assistance from TWDB to require in all contracts for the construction of a project that the contract include a requirement that iron and steel products, rather than iron and steel products and manufactured goods, used in the project be produced in the United States, unless such products, rather than products or goods, are not available in sufficient quantities, readily available, or of a satisfactory quality, or the use of such products will increase the total cost of the project by more than 20 percent. Makes a conforming change.

SECTION 4. Amends Section 17.183(c)(4), Water Code, to redefine "produced in the United States."

SECTION 5. Repealers: Sections 17.183(c)(1) (relating to the definition of "component") and (2) (relating to the definition of "manufactured good") and (d) (relating to the entire cost of a component originating in the United States contributing to the determination of the percentage of components of the manufactured good that originate in the United States), Water Code.

SECTION 6. (a) Makes application of Subchapter F, Chapter 2252, Government Code, as added by this Act, prospective.

(b) Provides that Subchapter F, Chapter 2252, Government Code, as added by this Act, does not apply to a project as described by Section 15.432 (Fund) or 15.472 (Fund), Water Code, that TWDB has formally approved for financial assistance. Defines "formally approved" to mean, in this subsection, any project that is the subject of a resolution approving an application for financial assistance adopted by TWDB before May 1, 2019, for any portion of the financing of the project.

SECTION 7. Effective date: September 1, 2017.