

SENATE BILL REPORT

SB 5456

As of February 4, 2020

Title: An act relating to requiring the use of American or recycled steel products on certain public works.

Brief Description: Requiring the use of American or recycled steel products on certain public works.

Sponsors: Senators Keiser, Conway, Hunt and Nguyen.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 2/20/19, 2/21/19 [DPS-TRAN, DNP].
Transportation: 2/03/20.

Brief Summary of First Substitute Bill

- Requires contracts for public works include a provision requiring all steel products used or supplied in the performance of the contract be a product of the United States or produced in a country where more than 65 percent of that country's total crude steel output is made from recycled material, with certain exceptions.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5456 be substituted therefor, and the substitute bill do pass and be referred to Committee on Transportation.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Hasegawa and Takko.

Minority Report: Do not pass.

Signed by Senators Zeiger, Ranking Member; Bailey and Hawkins.

Staff: Melissa Van Gorkom (786-7491)

SENATE COMMITTEE ON TRANSPORTATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Erica Bramlet (786-7321)

Background: Public works include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality. A competitive bidding process is required for most public works projects. State law generally requires agencies award public works contracts to a responsible bidder with the lowest responsive bid.

Summary of Bill: Contracts for public works must include a provision requiring all steel products used or supplied in the performance of the contract and in any related subcontract be:

- produced in the United States at a facility regulated by the United States Environmental Protection Agency; or
- produced in a country where more than 65 percent of that country's total crude steel output is produced by means of electric arc furnaces that use postconsumer scrap steel material as the major feedstock.

This requirement does not apply:

- if the state or municipality determines, in writing, the steel products are not produced or available in sufficient quantity to meet the requirements of the contract;
- if it will increase the total cost of the project by more than 20 percent;
- to temporary structures used for transportation projects purchased prior to the effective date of the act; or
- to de minimus incidental components that comprise no more than 5 percent of the total cost of material used in and incorporated into a project, limiting the cost of any individual item to 1 percent of the total cost of materials used and incorporated into a project.

The bill declares it does not impair or otherwise affect the states existing obligations under international agreements.

EFFECT OF CHANGES MADE BY STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS COMMITTEE (First Substitute):

- Exempts temporary structures used for transportation projects purchased prior to the effective date of the act.
- Exempts de minimus incidental components that comprise no more than 5 percent of the total cost of material used in and incorporated into a project, limiting the cost of any individual item to 1 percent of the total cost of materials used and incorporated into a project.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute (State Government, Tribal Relations & Elections) (Regular Session 2019): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is trying to buy American and domestically stimulate the economy. The contractor for the Washington convention center bid the project \$21 million lower than the lowest local contract and was able to do that because the steel was from China and South Korea where they do not have the same labor and environment standards. This would not only have an economic impact but an environmental impact. The United States has the regulations and a process that is much cleaner and safer to the environment and some of the foreign steel does not meet those standards. For example, if a ton of steel in Seattle was replaced with a ton of steel from China it results in a 4000 pound increase in greenhouse gas emissions.

OTHER: There needs to be more clarity around exemptions. It is not clear how companies would go about getting the information necessary for a waiver. Hydro projects require specialized equipment that comes from all over the world and it would be difficult to monitor whether or not this equipment meets the requirements in this bill. For transportation projects temporary structures are often used and re-used and companies that already have these temporary structures would have no way to provide the necessary information that the steel complies with the requirements. Exemptions should be provided for minor items such as nuts and bolts. The Federal Buy America Act, which is less restrictive than this legislation, provides a process where things not available in the United States are dealt with in a timely and cost efficient manner.

Persons Testifying (State Government, Tribal Relations & Elections): PRO: Senator Karen Keiser, Prime Sponsor; Mark Streuli, Iron Worker Management Cooperative Trust; Brad Boswell, Nucor Steel; Chris McClain, Ironworkers Local 86.

OTHER: Dave Arbaugh, Chelan Public Utility District; Jerry VanderWood, Associated General Contractors; Jake Jacobson, Associated General Contractors and Osborne Construction; Chris Christopher, Washington Department of Transportation.

Persons Signed In To Testify But Not Testifying (State Government, Tribal Relations & Elections): No one.

Staff Summary of Public Testimony on First Substitute (Transportation) (Regular Session 2020): PRO: American-made steel is higher quality and made in a more environmentally friendly way than in other countries. There are currently two steel companies in Washington; these requirements would create more jobs and stimulate the economy. Domestic preferences are allowed in law and cost increases would be minimal. This bill would mean less steel going into landfills, and allow the state to take its climate leadership a step further by reducing the amount of non-state emissions stemming from dirtier manufacturing in other countries by ensuring the steel used in public works projects is made in the United States, where environmental requirements are more stringent.

CON: This would increase costs for the construction companies in Washington. Even the de minimis exemption would be burdensome to keep track of. There is also a lack of clarity about if machinery used in construction would be exempt or not.

OTHER: Cost would be a concern for utilities as they seek to implement recent clean air legislation. There is also much specialized equipment from overseas used in generating hydroelectric power.

Persons Testifying (Transportation): PRO: Senator Karen Keiser, Prime Sponsor; Vlad Gutman-Britten, Washington State Labor Council; Mark Streuli, Northwest District Council of Ironworkers—IMPACT; Heather Trim, Zero Waste Washington; Jessica Koski, BlueGreen Alliance.

CON: Jerry VanderWood, Associated General Contractors.

OTHER: Dave Arbaugh, Chelan PUD.

Persons Signed In To Testify But Not Testifying (Transportation): No one.