

SENATE BILL REPORT

SB 5456

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, February 21, 2019

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].

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)

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

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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: The bill as referred to committee not considered.

Summary of Bill (First Substitute): 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 or will increase the total cost of the project by more than 25 percent;
- to temporary structures used for transportation projects and purchased prior to the effective date of the act;
- to de minimus incidental components that comprise no more than five percent of the total cost of material used in and incorporated into a project, limiting the cost of any individual item to one percent of the total cost of materials used and incorporated into a project; or
- if it would 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 and purchased prior to the effective date of the act.
- Exempts de minimus incidental components that comprise no more than five percent of the total cost of material used in and incorporated into a project, limiting the cost of any individual item to one 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: *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: 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: No one.