



H.B. 112

124th General Assembly
(As Introduced)

Reps. Patton, Allen, Barrett, Distel, Key, Latell, D. Miller, Redfern, Jones, Krupinski, S. Smith

BILL SUMMARY

- Requires the Director of Administrative Services to investigate possible violations of the existing general ban against use of foreign steel in public improvement projects.
- Authorizes the Attorney General to commence a civil action against violators of the ban.
- Creates a civil penalty for violators of the ban and requires that the penalty money be deposited in the general fund of the school district in which the violation occurred.
- Authorizes the Director of Administrative Services to waive the steel usage and supply requirement entirely for public bridge projects under specified conditions.
- Limits the definition of steel products to include only steel used for load-bearing purposes.
- Modifies the manner in which the ban applies to public improvements.
- Declares an emergency.

CONTENT AND OPERATION

Background on existing law

U.S. steel required for specified public improvements

Under existing law, when steel products are used for the construction or improvement of a state-supported building, structure, or highway improvement

that is not yet bid, only steel products made in the United States may be used or supplied for that construction or improvement, with one exception. Under specified conditions, the Director of Transportation may authorize the use of a minimal amount of foreign steel products in contracts for public bridge improvements. (Sec. 153.011(A) and (D).)

Existing remedies and penalties relative to the U.S. steel requirement

Only one remedy and one penalty, both described below, are specifically provided under the Public Improvements Law relative to a violation of the U.S. steel usage and supply requirement.

The Director of Administrative Services must prepare rules establishing equitable dispute resolution procedures for public works contracts entered into by any institution supported by the state for any projects subject to specified provisions of the Public Improvements Law (R.C. Chapter 153.), which includes the above provision. (Section 4 of S.B. 99 of the 121st General Assembly; not in the bill.)

If an "officer" (not defined under R.C. Chapter 153.) violates the above requirement, the officer must be fined not more than \$1,000. (Secs. 153.58 and 153.99; not in the bill.)

Other than remedies provided under the Director's rules and the above penalty, no other *specific* remedies or sanctions are provided relative to the U.S. steel usage and supply requirement.

The bill

Investigation of potential violation

Under the bill, whenever the Director of Administrative Services has reasonable cause to believe that a person has supplied steel products in violation of the U.S. steel supply requirement, the Director must conduct an investigation to determine whether the person has supplied or is supplying steel products in violation of the law.

Civil action

Upon conducting the investigation, if the Director finds that the person has supplied or is supplying steel products in violation of the law, the Director must request the Attorney General to commence an action against the person for the violation. The bill specifies that any such action is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to

civil actions.¹ The remedy provided in the bill is cumulative and concurrent with any other remedy provided under the Public Improvements Law. Additionally, the bill specifies that the existence or exercise of one remedy does not prevent the exercise of any other. (Sec. 153.011(C).)

Civil penalty created

The bill requires a contractor who uses steel products in violation of the U.S. steel supply requirement to pay a civil penalty equal to one and one-half times the cost of the steel products used in violation of the law.

Upon collection of the civil penalty pursuant to a civil action, the Attorney General must pay the money collected to the Treasurer of the Board of Education of the city, local, or exempted village school district in which the construction, repair, or improvement project for which the steel products used in violation is located. The Treasurer must deposit the civil penalty into the school district's general fund. (Sec. 153.011(B).)

Waivers

Under existing law, not changed by the bill, the Director of Transportation may authorize minimal amounts of foreign steel if either of the following is true: (1) the cost for each contract item used does not exceed the greater of 1/10 of 1% of the total contract cost, or \$2,500, (2) the Director determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements. The bill gives the Director of Administrative Services the authority to waive the steel usage and supply requirement entirely for public bridge projects when the Director determines that at least one of the above two conditions are met. The bill requires the Director to issue this determination in writing.

Application of existing requirement

The bill modifies the U.S. steel supply requirement by applying it to improvement projects that are in whole or in part supported by state capital funds, including moneys from the Education Facilities Trust Fund, instead of only stating, as existing law does, that the requirement applies to improvement projects that are in whole or in part supported by the state. Additionally, the bill eliminates

¹ Article IV, Section 5(B) of the Ohio Constitution requires the Ohio Supreme Court to prescribe rules governing practice and procedure in all courts of the state. Accordingly, the Supreme Court has adopted the Rules of Civil Procedure to be followed by all courts of Ohio in the exercise of civil jurisdiction at law or in equity, including rules that specifically govern civil actions.

the condition specifying that the U.S. steel usage and supply requirement applies to public improvements not yet bid. (Sec. 153.011(A).)

Definitions

Existing law defines "steel product" as "products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, bessemer or other steel making process." "United States" is defined by existing law to include "all territory, continental or insular, subject to the jurisdiction of the United States." The bill modifies this definition by limiting it to these steel products "*used for load-bearing purposes.*" (Sec. 153.011(E).)

HISTORY

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