

**HB 3332 A STAFF MEASURE SUMMARY**

**House Committee On Business and Labor**

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**Action Date:** 03/22/23

**Action:** Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

**Vote:** 9-2-0-0

**Yeas:** 9 - Elmer, Grayber, Holvey, Hudson, Nelson, Nosse, Osborne, Scharf, Sosa

**Nays:** 2 - Boshart Davis, Owens

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Erin Seiler, LPRO Analyst

**Meeting Dates:** 3/13, 3/22

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**WHAT THE MEASURE DOES:**

Requires state contracting agency that procures public improvement contract or contract for public works to include in solicitation documents clear and conspicuous notice that resulting public improvement contract or contract for public works will require contractors to use iron, steel, coatings for iron and steel and manufactured products that are made in United States. Requirement applies to public improvement or public works with estimated contract of \$150,000 or more. Permits Director of Oregon Department of Administrative Services (DAS), Director of Oregon Department of Transportation (ODOT), or their designee, to waive requirement to use iron, steel, coatings for iron and steel and manufactured products made in United States on public improvement contracts and contracts for public works if director, or their designee, finds in writing: requirement is inconsistent with the public interest; steel, iron, coatings for steel and iron and manufactured products required for the public improvement or public works are not produced in the United States in sufficient and reasonably available quantities and with satisfactory quality; or using steel, iron, coatings for steel and iron or manufactured products produced in the United States for the public improvement or the public works will increase the cost of the public improvement or public works by more than 25 percent. Requires director to respond to request for draft finding for waiving requirement to use manufactured products made in United States within 15 days by issuing draft finding or requesting additional information from person who made request for waiver. Requires director to issue draft notice with detailed explanation; provide notification to public and to contractors who intend to submit, or have submitted, bids or proposals for public improvement or public works; allow seven calendar days for public comment on proposed waiver; and if after considering public comment waiver is granted, provide public notice using same method used to provide notice of proposed waiver. Findings made by director may apply to single public improvement contract or contract for public works, to class of public improvement contracts or contracts for public works, or to class of iron or steel products, coatings or manufactured products. Director must indicate duration and applicability of findings in waiver and may review and continue, amend, or lift a waiver at any time. If waiver applies to class of public improvement contracts or contracts for public works or to class of iron or steel products, coatings or manufactured products, director must review at least every five years and, if necessary, amend or lift waiver. Before continuing, amending or lifting a waiver, director shall provide for public notice and comment. Requires DAS to establish, by rule, technical assistance and grant program to assist business certified as disadvantaged business enterprise, minority-owned business, woman-owned business, business that service-disabled veteran owns or emerging small business, meet requirements of measure. Business that receives grant funds may not use funds to defray expenses incurred to prepare procurement bid or proposal. DAS must submit request for funding to Legislative Assembly before establishing program. Provides rulemaking authority. Becomes operative on January 1, 2024. Takes effect on 91st day following adjournment sine die.

## HB 3332 A STAFF MEASURE SUMMARY

### ISSUES DISCUSSED:

- Federal and state domestic procurement policies
- Creating new family wage jobs in manufacturing sector
- Reinvesting in Oregon economy
- Environmental impact; recovery, recycling, and production impact
- Definition of manufactured product and chain of manufacturing
- Solidify steel supply chain
- Control over production standards

### EFFECT OF AMENDMENT:

Amends definition of "manufactured product" to mean preassembled item made of iron or steel and that contractor brings to construction project for public improvement or public works project or preassembled item made of iron or steel and state contracting acquires for use. Removes from definition of "Produced in the United States" that all manufacturing processes for construction material occurred within the United States. State contracting agency must require public improvement or public works contracts that purchases steel, iron, coatings for steel and manufactured products for use in project to be produced in the United States when estimated contract of \$150,000 or more. Requires Director of Oregon Department of Administrative Services (DAS) or Director of Oregon Department of Transportation (ODOT) to respond to request for draft finding for waiving requirement to use manufactured products made in United States within 15 days by issuing draft finding or requesting additional information from person who made request for waiver. Clarifies that director may rescind waived requirements. Requires DAS to establish, by rule, technical assistance and grant program to assist business certified as disadvantaged business enterprise, minority-owned business, woman-owned business, business that service-disabled veteran owns or emerging small business, meet requirements of measure. Business that receives grants funds may not use funds to defray expenses incurred to prepare procurement bid or proposal. DAS must submit request for funding to Legislative Assembly before establishing program.

### BACKGROUND:

The [Build America, Buy America Act](#), enacted as part of the Infrastructure Investment and Jobs Act on November 15, 2021, established a domestic content procurement preference for all federal financial assistance obligated for infrastructure projects after May 14, 2022. The domestic content procurement preference requires that all iron, steel, manufactured products, and construction materials used in covered infrastructure projects are produced in the United States; for manufactured products, the final manufacturing process must occur in the United States and the cost of components mined, produced, or manufactured in the United States must be greater than 55 percent; and for construction materials, all manufacturing processes must occur in the United States. Build America, Buy America applies to any Federal financial assistance programs for infrastructure.

Buy America requirements can be waived. Agencies may waive requirements on the basis of (1) nonavailability, (2) unreasonable cost, or (3) public interest. All waivers must be in writing, published for public comment, and approved judiciously. Waivers should be limited to specific projects or time periods, targeted to the products necessary, and when appropriate, conditional, to maximize the use of American-made items.

House Bill 3332 A enacts Buy America requirements, similar to federal requirements, for public improvement contracts or contracts for public works by state contracting agencies in Oregon. The measure requires state contracting agency that procures public improvement contract or contract for public works, with estimated contract value of \$150,000 or more, include in solicitation documents clear and conspicuous notice that resulting public improvement contract or contract for public works will require contractors to use iron, steel, coatings for iron and steel and manufactured products that are made in the United States. Also, the measure permits the Director of Oregon Department of Administrative Services (DAS), Oregon Director of Transportation (ODOT), or their designee, to waive the requirement to use iron, steel, coatings for iron and steel and manufactured products made in United States on public improvement contracts and contracts for public works.