

# SENATE BILL REPORT

## SB 5322

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As of January 30, 2023

**Title:** An act relating to environmental and labor reporting for public building construction and renovation material.

**Brief Description:** Requiring environmental and labor reporting for public building construction and renovation material.

**Sponsors:** Senators Wellman, Hasegawa, Keiser, Valdez and Wilson, C.; by request of Department of Commerce.

**Brief History:**

**Committee Activity:** State Government & Elections: 1/27/23 [w/oRec-ENET].  
Environment, Energy & Technology: 1/31/23.

**Brief Summary of Bill**

- Requires a selected firm for a construction contract for a covered project larger than 100,000 gross square feet to submit specified environmental, manufacturer, and labor information to an awarding authority beginning July 1, 2024.
- Requires a selected firm for a construction contract for a covered project to submit specified environmental, manufacturer, and labor information to an awarding authority beginning July 1, 2026.
- Specifies the Department of Commerce (Commerce) must continue to develop and maintain the publicly available database funded by the 2021-2023 Omnibus Operating Appropriations Act.
- Requires Commerce to convene a Buy Clean and Buy Fair Work Group by December 1, 2023.
- Requires capital budget instructions, beginning with the 2025-2027 biennium, to include information informing awarding authorities of the requirements of this act.

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

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## SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Staff:** Angela Kleis (786-7469)

**Background:** In 2021, the Legislature commissioned the Buy Clean Buy Fair Washington Project pilot study. The pilot study required the Department of Commerce (Commerce) to contract with the University of Washington College of Built Environments to create a database and reporting system to collect product, manufacturer, environmental, and labor information for state-funded construction projects and to conduct a case study using pilot projects.

A final report including recommendations for the reporting system based on lessons learned and findings from the case study was submitted to the Legislature on November 1, 2022.

**Summary of Bill:** Reporting Requirements. Beginning July 1, 2024, an awarding authority must require in all newly executed construction contracts that the selected firm for a construction contract for a covered project larger than 100,000 gross square feet to submit the following data for each covered product used before substantial completion:

- product quantity;
- a current environmental product declaration (EPD);
- completed health production declaration, if any;
- manufacturer name and location;
- supplier code of conduct, if any;
- Office of Minority and Women-owned Business Enterprises certification, if any;
- names and locations of the actual production facilities; and
- working conditions at the actual production facilities for all employees.

Beginning July 1, 2026, these reporting requirements apply to all newly executed construction contracts. The selected firm must provide data for at least 90 percent of the cost of each of the covered products used in a project.

The selected firm must collect required data from product suppliers; however, it is not required to verify such data.

*Financial Assistance.* Subject to appropriations, the Department of Commerce (Commerce) may provide financial assistance to small businesses to help offset the costs of producing an EPD.

*Exemption.* These reporting requirements do not apply to a covered product for a particular covered product if it is determined the requirements would cause a significant delay in completion, significant increase in overall project cost, or result in only one product supplier being able to provide the covered product.

Specifications. By July 1, 2024, and to the extent practicable, specifications for a bid or

proposal for a project contract by an awarding authority may only include performance-based specifications for concrete used as a structural material. Awarding authorities may continue to use prescriptive specifications on structural elements to support special designs and emerging technology implementation.

Database. Commerce must continue to develop and maintain the publicly accessible database funded in the 2021-2023 Omnibus Operating Appropriations Act and created in conjunction with the University of Washington College of Built Environments. The database must publish global warming potential as reported in the EPDs.

By July 1, 2024, Commerce must:

- further elaborate covered product definitions;
- develop measurement and reporting standards;
- create model language for specification, bid documents, and contracts; and
- produce specified educational briefs.

Work Group. By December 1, 2023, Commerce must convene a Buy Clean and Buy Fair Work Group (work group). Membership includes industry professionals, manufacturers, state agencies, environmental groups, and labor unions.

By September 1, 2024, the work group must submit a low carbon materials manufacturing plan report to the Legislature and the Governor. The report must recommend policies to preserve and grow the in-state manufacturing of low carbon materials.

By September 1, 2025, the work group must submit a report on policy recommendations, including statutory changes needed, to the Legislature and the Governor. The report must consider policies to leverage public procurement to expand the use and production of low carbon materials, to promote high labor standards in manufacturing, and to preserve and expand low carbon materials manufacturing in Washington, including opportunities to encourage continued conversion to lower carbon blended cements in public projects.

Budget Instructions. The Office of Financial Management must include in its capital budget instructions, beginning with the instructions for the 2025-2027 biennium, information informing awarding authorities of the data and information requirements in this act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 25, 2023.

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

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