
Capital Budget Committee

HB 1103

Brief Description: Improving environmental and social outcomes with the production of building materials.

Sponsors: Representatives Duerr, Shewmake, Fitzgibbon, Bateman, Ramel, Ryu, Kloba and Macri.

Brief Summary of Bill

- Requires firms selected for large construction or building renovation contracts to provide an Environmental Product Declaration (EPD) and labor data for at least 90 percent of the weight of covered materials used in the project (primary reporting requirements).
- Provides alternative reporting requirements for firms that cannot fulfill the primary reporting requirements on the grounds of hardship.
- Directs the University of Washington College of Built Environment to create a publicly accessible database, with projects anonymized, to report the collected data.
- Directs the Department of Commerce to submit a report to the Legislature summarizing the collected data by January 1, 2025.

Hearing Date: 1/26/21

Staff: Richelle Geiger (786-7139).

Background:

Public Works.

Public works include construction, renovation, remodeling, and repair, other than maintenance,

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.

of real property at the cost of the state or a municipality. The capital budget provides direct appropriations and grants to state agencies, other governmental entities, and nonprofit organizations for public works. The transportation budget provides funding to construct and preserve roads and bridges, ferries and terminals, and freight rail. Typical materials used in those projects may include concrete, steel, and other materials. Most public works are procured using the Design-Bid-Build procedure when a governmental entity selects an architectural engineering firm to develop drawings and specifications for the project along with an estimate of the cost, then the construction contract is awarded to the lowest responsible bidder. The contractor is required to follow the specifications and drawings and may use whatever means to do so as long as the materials meet the specifications.

Global Warming Potential.

The Global Warming Potential (GWP) compares the global warming impacts of different gases. The United States Environmental Protection Agency (EPA) and the Department of Ecology identify carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride as greenhouse gases (GHG) because of their capacity to trap heat in the Earth's atmosphere. According to the EPA, the GWP of each GHG is a function of how much of the gas is concentrated in the atmosphere, how long the gas stays in the atmosphere, and how strongly the particular gas affects global atmospheric temperatures. Under state law, the GWP of a gas is measured in terms of the equivalence to the emission of an identical volume of carbon dioxide over a 100-year timeframe.

Environmental Product Declaration.

An Environmental Product Declaration (EPD) is a report providing what a product is made of and how it impacts targeted aspects of the environment, including the manufacturing impacts, transportation impacts, and construction impacts. Environmental Product Declarations are created according to internationally recognized standards and are third-party verified or self-declared. Environmental Product Declarations may be based on industry averages or specific to individual products or facilities.

Labor Laws and Standards.

Several laws address employment standards and working conditions. The International Labour Organization (ILO) within the United Nations maintains and develops a system of international labor standards. The ILO's four fundamental principles and rights to work are: (1) effective abolition of child labor; (2) elimination of discrimination in respect of employment and occupation; (3) elimination of all forms of forced or compulsory labor; and (4) freedom of association and the effective recognition of the right to collective bargaining.

Buy Clean Study and Pilot.

The 2018 Supplemental Capital Budget included funding for a Buy Clean study and a pilot project. The University of Washington (UW), in collaboration with Central Washington University, Washington State University, and the Department of Enterprise Services (DES), submitted a report analyzing existing embodied carbon policy, and proposing methods to categorize structural materials. The DES and the awarding authorities of four capital projects are

collaborating with the UW to test the proposed methods and the availability of EPDs.

Summary of Bill:

Definitions.

Awarding authorities are state agencies and institutions of higher education that contract directly for a public works project that receives funding from the capital budget.

A covered project is a:

- Construction project larger than 25,000 gross square feet of space; or
- Building renovation project where the cost is greater than 50 percent of the assessed value and the project is larger than 25,000 gross square feet of occupied and conditioned space.

Covered materials are:

- Structural concrete products;
- Reinforcing steel products;
- Structural steel products; and
- Engineered wood products.

Working conditions are defined as:

- Average number of employees, by employment type;
- Average hourly wage;
- Hours worked by weekly hour bands;
- Maximum number of hours that an employee can be required to work per week; and
- Percent of employees covered by a collective bargaining agreement.

Reporting Requirements.

Awarding authorities must require firms selected for a covered project contract to submit an EPD and additional specified data, including information about working conditions at the production facilities, for at least 90 percent of the weight of the covered product within the following time frame:

- Beginning July 1, 2021, submittal if an EPD is available, prior to the final construction retainage payment;
- Beginning July 1, 2022, submittal for each covered product used prior to the final construction retainage payment; and
- Beginning on July 1, 2023, submittal for each covered product used before the material is installed in the project.

If a selected firm cannot meet the primary reporting requirements, they must report on its efforts to obtain the data and reason why the data could not be reported.

Subject to funds made available for this purpose, the Department of Commerce (Department) may provide financial assistance to small businesses to produce an EPD.

Other Provisions.

Each awarding authority must transmit a copy of all collected data to the Department, annually.

The UW College of Built Environment is directed to create a publicly accessible database, with projects anonymized, to report the collected data. By January 1, 2025, the Department will submit a report to the Legislature, summarizing the collected data.

The Office of Financial Management must inform awarding authorities about the requirements in this act.

The act may be known and cited as the Buy Clean and Buy Fair Washington Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.