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## Capital Budget Committee

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### HB 1282

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

**Sponsors:** Representatives Duerr, Hackney, Berry, Ramel, Doglio, Reed and Pollet; by request of Department of Commerce.

#### Brief Summary of Bill

- Requires firms selected by state agencies and institutions of higher education for large construction or building renovation contracts to report Environmental Product Declarations, Health Product Declarations, working conditions, and other data.
- Directs the Department of Commerce to continue development of a public database for reported data.
- Establishes a Buy Clean and Buy Fair Work Group.

**Hearing Date:** 2/2/23

**Staff:** Dawn Eychaner (786-7135).

#### **Background:**

##### Environmental Product Declarations.

An Environmental Product Declaration (EPD) is a document that presents environmental information on the lifecycle of a product, including measurements of embodied greenhouse gas emissions of construction material and products. The EPDs are created according to internationally recognized standards and are third-party verified or self-declared and may be based on industry averages or be specific to individual products or facilities. The International Organization for Standardization (ISO) has published specifications for developing EPDs.

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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.*

### Health Product Declarations.

The Health Product Declaration Open Standard (HPDOS) is a standardized format for reporting building product content and associated health information. The HPDOS is managed by the Health Product Declaration Collaborative, a nonprofit member organization whose membership includes industry and advocacy representatives.

### Office of Minority and Women's Business Enterprises.

The state Office of Minority and Women's Business Enterprises (OMWBE) certifies small businesses owned and controlled by minority, women, and socially and economically disadvantaged persons. State agencies and educational institutions must consult with the OMWBE to afford minority and women-owned businesses the maximum practicable opportunity to participate in public contracts for public works, goods, and services.

### Buy Clean Pilots and Database.

Building upon a 2018 pilot, the 2021-23 biennial capital budget required the Department of Commerce (COM) to coordinate with the University of Washington College of Built Environments (UW) to test proposed methods and availability of EPDs and working condition information for manufacturing facilities that are primary producers of covered products for pilot projects.

In addition, the 2021-23 biennial operating budget directed the COM to contract with the UW to create a database and reporting system for building materials for state-funded construction projects.

## **Summary of Bill:**

### Reporting Requirements.

Reporting requirements take effect July 1, 2024, for new construction contracts for covered projects larger than 100,000 gross square feet and on July 1, 2026, for all other new construction contracts for covered projects and products. Beginning on these dates, awarding authorities must require the construction contractor to:

1. Report, prior to substantial project completion:
  - the quantity of covered products; and
  - the following supplier-reported data for at least 90 percent of the cost of each of the covered products used in the project:
    - a current Environmental Product Declaration (EPD);
    - an Health Product Declaration, if any, for the product;
    - the manufacturer name and location;
    - supplier code of conduct, if any;
    - Office of Minority and Women's Business Enterprise Certification, if any; and
2. Ask suppliers to report, for at least 90 percent of the cost of each covered product used in the

project, and prior to substantial completion:

- names and locations of actual production facilities; and
- working conditions at the actual production facilities for all employees. If the supplier does not have this information, the selected firm must ask the supplier to report on steps taken to reasonably obtain the data and provide suppliers' self-reports to the awarding authority.

If the awarding authority determines that these data collection and reporting requirements for a covered product 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, the reporting requirements do not apply.

Awarding authorities must include data collection and reporting requirements in specifications for bids for covered projects. By July 1, 2024, and to the extent practicable, specifications for a bid or proposal for a project contract may only include performance-based specifications for concrete used as a structural material. An awarding authority may continue to use prescriptive specifications on structural elements to support special designs and emerging technology implementation.

#### Definitions.

##### *Awarding Authority.*

An awarding authority is a state agency or institution of higher education that receives funding from the capital budget and contracts directly for public works projects.

##### *Covered Project.*

A covered project is a:

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

##### *Covered Product.*

Covered products are certain structural concrete products, reinforcing steel products, structural steel products, and engineered wood products.

##### *Environmental Product Declaration.*

An Environmental Product Declaration (EPD) means a supply chain specific type III EPD, as defined by International Organization for Standardization (ISO) standard 14025 or similarly robust life-cycle assessment methods.

Supply chain specific means an EPD that includes supply chain specific data for production processes that contribute 80 percent or more of a product's cradle-to-gate global warming potential, as defined by ISO standard 21930. For engineered wood products, this requires reporting of any chain of custody certification and percent volume contribution to wood sourcing with: a) forest management certification, b) by state or province and country, and c) by owner

type.

*Health Product Declaration.*

A Health Product Declaration (HPD) means is a supply chain specific health product declaration as defined by the HPD Health Product Declaration Collaborative, that has robust methods for product manufacturers and their ingredient suppliers to uniformly report and disclose information about product contents and associated health information.

*Actual Production Facilities.*

Actual production facilities means the final manufacturing facility and the facilities at which production processes occur that contribute to 80 percent or more of the product's cradle-to-gate global warming potential, as reflected in the EPD.

Other Provisions.

*Financial Assistance.*

Subject to funds appropriated for this specific purpose, the Department of Commerce (COM) may provide financial assistance to small businesses with 50 or fewer employees to offset costs of producing EPDs.

*Database.*

COM must continue to develop and maintain the publicly accessible database created in conjunction with the University of Washington College of Built Environments (UW) for construction firms to report data collected under the Act. The COM may contract for the use of nationally or internationally recognized database of EPDs for this purpose. By July 1, 2024, the COM must:

- further elaborate covered product definitions using applicable industry standards;
- develop measurement and reporting standards;
- create model language for specifications, bid documents, and contracts; and
- produce an educational brief that describes embodied carbon, the appropriate use of EPDs, reporting requirements and standards, instructions for using the database, and lists applicable product category rules for covered products.

*Buy Clean and Buy Fair Work Group.*

By December 1, 2023, the COM must convene a Buy Clean and Buy Fair Work Group (Work Group) to identify opportunities and barriers for using and producing low-carbon materials, promote high labor standards in manufacturing, and preserve and expand low carbon material manufacturing in Washington.

Work Group Members must include industry professionals, Washington manufacturers and associations, specified state agencies, environmental groups, labor unions, the minority and women-owned business community, the UW, and other agencies and experts as necessary to meet Work Group objectives.

The Work Group must submit to the Legislature and Governor a low carbon materials

manufacturing plan by September 1, 2024, and policy recommendations by September 1, 2025. The Work Group expires on January 1, 2027.

*Other.*

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