

# SENATE BILL REPORT

## SB 5391

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As of January 25, 2023

**Title:** An act relating to the modeling, measurement, and reporting of embodied carbon emission reductions from structural building products in state-funded projects.

**Brief Description:** Modeling, measurement, and reporting embodied carbon emission reductions from structural building products in state-funded projects.

**Sponsors:** Senators Van De Wege, Schoesler, Mullet, Dozier, Lias and Short.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/27/23.

**Brief Summary of Bill**

- Requires the designer of record to conduct a life-cycle assessment of eligible structural products and to include specified requirements in contract documents or project specifications.
- Requires the Department of Commerce to partially reimburse manufacturers for the costs of producing product-specific environmental product declarations of eligible products and to make certain information available in an online database.
- Specifies reporting requirements for a designer of record and a project construction contractor.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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

**Background:** Environmental Product Declaration. An environmental product declaration (EPD) is a report providing what a product is made of and the environmental impacts of product manufacturing. EPDs are developed by industry according to internationally

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recognized standards, based on life-cycle assessment (LCA), and verified by a third-party. EPDs can be based on industry averages or specific to individual products or facilities.

Public Works Projects. Public works projects include construction, renovation, remodeling, and repair, other than maintenance, of real property at the cost of the state or a municipality. Most public works projects are subject to public works laws and procured using the design-bid-build procedure where 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. Contractors are required to follow the specifications and drawings and may use whatever means to do so as long as the materials meet the specifications. Typical materials used in public works projects may include concrete, steel, and other materials.

**Summary of Bill:** Life-Cycle Assessment. During the schematic design phase and when considering structural products that will satisfy the anticipated project applications and requirements, the designer of record must conduct an LCA of the eligible structural products in the project. The LCA must be reported in accordance with specified standards and include the range of potential outcomes associated with the uncertainties and variability at this point in the project. The designer of record must upload a summary of the LCA to an online database.

Environmental Product Declaration Reimbursement. The Department of Commerce (Commerce) must partially reimburse manufacturers for the costs of producing product-specific EPDs of eligible products. Reimbursements are available only to manufacturers that currently harvest, extract, recycle, produce, or assemble an eligible product within Washington and must be for one-half of the substantiated direct financial costs for producing product-specific EPDs, not covered by other grants, up \$15,000 per manufacturing location or batch plant, with a maximum of \$45,000 for manufacturer, associated companies, or both.

Eligible products with a previously published EPD or that are produced by a previously purchased on-demand environmental declaration software license are not eligible for reimbursement. Reimbursement requires that all EPDs comply with specified standards, are product-specific, third-party reviewed, and published by or before December 31, 2025.

Contract Documents or Project Specification Requirements. The designer of record must include in the contract documents or project specifications for eligible projects specified requirements.

For projects with bidding commencing on or after January 1, 2025, one month prior to the project's successful completion, the successful bidder must submit to the construction contractor product-specific EPDs for at least 90 percent by weight or volume of all eligible products and their installed product quantities. The construction contractor must transmit this information to the awarding authority and to Commerce at substantial completion of the

construction contract.

For projects with bidding commencing on or after January 1, 2027, at the time of bid submission and one month prior to the project's substantial completion, the successful bidder must submit to the construction contractor product-specific EPDs for at least 90 percent by weight or volume of all eligible products and their estimated product quantities—the successful bidder must update information to reflect as-built conditions. The construction contractor must transmit this information to the awarding authority and to Commerce at the time of the successful bidder award and update the information at the time of substantial completion of the construction contract.

Contract documents or project specification requirements do not apply to an eligible product if the awarding authority determines it is not technically feasible to provide a product-specific EPD, or a state of emergency exists and submitting documentation would pose a clear and imminent danger.

Reporting Requirement. The project-specific baseline, the project-specific reduction percentage, and the embodied carbon intensity must be calculated and reported as specified. At the project's substantial completion, the project's construction contractor must transmit the following calculations to the awarding authority and Commerce:

- an updated estimate of embodied carbon emissions for eligible products using the procured as-built product quantities;
- an as-built embodied carbon reduction percentage of the sum of all eligible products; and
- the as-built embodied carbon intensity as specified.

Data Collection and Online Database. Commerce must select a public or nonprofit entity to collect certain information. Information in this online database must remain in the public domain, be accessible without cost or limitation, and include specified data for all eligible projects bidding on eligible products on or after January 1, 2025. Awarding authorities may review the database annually to inform embodied carbon targets for future projects constructed of like products for a like purpose in a similar location and must require the designer of record to review applicable projects in this database prior to completion of schematic design.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2023.

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

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