
SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1282

State of Washington

68th Legislature

2023 Regular Session

By House Capital Budget (originally sponsored by Representatives Duerr, Hackney, Berry, Ramel, Doglio, Reed, and Pollet; by request of Department of Commerce)

READ FIRST TIME 02/17/23.

1 AN ACT Relating to environmental and labor reporting for public
2 building construction and renovation material; amending RCW
3 43.88.0301; adding a new chapter to Title 39 RCW; creating new
4 sections; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

7 (1) Washington state, through its extensive purchasing power, can
8 reduce embodied carbon in the built environment, improve human and
9 environmental health, grow economic competitiveness, and promote high
10 labor standards in manufacturing by incorporating climate and other
11 types of pollution impacts and the quality of working conditions into
12 the procurement process.

13 (2) Washington state is home to multiple world-class
14 manufacturers that are investing heavily in reducing the carbon
15 intensity of their products and that provide family-wage jobs that
16 are the foundation for a fair and robust economy. Washington's
17 procurement practices should encourage manufacturers and others to
18 meet high environmental and labor standards and reduce their
19 environmental footprint.

20 (3) The private sector is increasingly demanding low carbon
21 building materials that support good jobs in manufacturing. This

1 market demand has rapidly accelerated innovation and led to increased
2 production of low carbon building materials. As one of the largest
3 consumers of building materials, Washington state has an opportunity
4 to leverage its purchasing power to do even more to send a clear
5 signal to the market of the growing demand for low carbon building
6 materials.

7 (4) With its low carbon electric grid and highly skilled
8 workforce, Washington state is well-positioned to capture the growing
9 demand for low carbon building materials and create and sustain a new
10 generation of good, high-wage clean manufacturing jobs.

11 (5) Washington has demonstrated a deep commitment to ensuring
12 that the transition to a low carbon economy is fair and creates
13 family-wage jobs. Both the clean energy transformation act and the
14 climate commitment act tie public investments in infrastructure to
15 reducing greenhouse gas emissions and to high road construction labor
16 standards. Integrating manufacturing working conditions into the
17 procurement process reaffirms and is consistent with the state's
18 commitment to a fair transition.

19 (6) A robust state and domestic supply of low carbon materials is
20 critical for building a fair economy and meeting the needs of the low
21 carbon transition, including securing the clean energy supply chain.

22 (7) Environmental product declarations are the best available
23 tool for reporting product-specific environmental impacts using a
24 life-cycle assessment and informing the procurement of low carbon
25 building materials. Environmental product declarations cannot be used
26 to compare products across different product categories or different
27 functional units.

28 (8) The buy clean and buy fair policies established in this act
29 are critical to reduce embodied carbon in the built environment, a
30 goal identified by the Washington state 2021 energy strategy to meet
31 the state's greenhouse gas emission limits, governor Inslee's
32 Executive Order 20-01 on state efficiency and environmental
33 performance, and the Pacific coast collaborative's pathbreaking low
34 carbon construction task force.

35 (9) Reducing embodied carbon in the built environment requires a
36 holistic, comprehensive approach that includes designing buildings
37 with a lower-embodied carbon footprint and making lower carbon
38 products. Policies like the buy clean and buy fair policies
39 established in this act are an important tool for increasing the
40 manufacture of lower carbon products.

1 (10) The 2021-2023 biennium budgets made critical progress on the
2 buy clean and buy fair policies in this act by funding the creation
3 of a publicly accessible database to facilitate reporting and promote
4 transparency on building materials purchased for state-funded
5 infrastructure projects and two large buy clean and buy fair pilot
6 projects. This ongoing work to create a database to facilitate
7 reporting of environmental impacts and labor conditions from pilot
8 projects has provided a strong foundation to inform future work on
9 buy clean and buy fair policies.

10 (11) Providing financial assistance to small manufacturers to
11 support the production of environmental product declarations will
12 help small manufacturers offset costs they might incur when pursuing
13 state contracting as a result of the requirements of this act.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires
16 otherwise.

17 (1) "Actual production facilities" means the final manufacturing
18 facility and the facilities at which production processes occur that
19 contribute to 70 percent or more of the product's cradle-to-gate
20 global warming potential, as reflected in the environmental product
21 declaration.

22 (2) "Awarding authority" means:

23 (a) Institutions of higher education as defined in RCW
24 28B.92.030;

25 (b) The department of enterprise services, the department of
26 natural resources, the state parks and recreation commission, the
27 department of fish and wildlife, and the department of
28 transportation; and

29 (c) Any other state government agency that receives funding from
30 the omnibus capital appropriations act for a public works project
31 contracted directly by the state agency.

32 (3) "Covered product" includes:

33 (a) Structural concrete products, including ready mix, shotcrete,
34 precast, and concrete masonry units;

35 (b) Reinforcing steel products, specifically rebar and
36 posttensioning tendons;

37 (c) Structural steel products, specifically hot rolled sections,
38 hollow sections, metal deck, and plate; and

1 (d) (i) Engineered wood products, such as cross-laminated timber
2 per ANSI form no. PRG 320, glulam beams, laminated veneer lumber,
3 parallel strand lumber, dowel laminated timber, nail laminated
4 timber, glulam laminated timber, prefabricated wood joists per ASTM
5 D5055, wood structural panel per product standard 1 or product
6 standard 2, solid sawn lumber per product standard 20, structural
7 composite lumber per ASTM D5456, and structural sawn lumber.

8 (ii) For the purposes of this subsection (3) (d):

9 (A) "ANSI" means the American national standards institute.

10 (B) "ASTM" means the American society for testing and materials.

11 (C) "Product standard" means a voluntary product standard
12 published by the United States department of commerce national
13 institute of standards and technology.

14 (4) "Covered project" means:

15 (a) A construction project larger than 50,000 gross square feet
16 as defined in the Washington state building code, chapter 51-50 WAC;
17 or

18 (b) A building renovation project where the cost is greater than
19 50 percent of the assessed value and the project is larger than
20 50,000 gross square feet of occupied or conditioned space as defined
21 in the Washington state building code, chapter 51-50 WAC.

22 (5) "Department" means the department of commerce.

23 (6) "Employee" means any individual who is in an employment
24 relationship with the organization.

25 (7) (a) "Environmental product declaration" means a type III
26 environmental product declaration, as defined by the international
27 organization for standardization standard 14025 or similarly robust
28 life-cycle assessment methods that have uniform standards in data
29 collection consistent with the international organization for
30 standardization standard 14025, industry acceptance, and integrity.
31 When available, the environmental product declaration must be supply
32 chain specific.

33 (b) For the purposes of this subsection, "supply chain specific"
34 means an environmental product declaration that includes supply chain
35 specific data for production processes that contribute 70 percent or
36 more of a product's cradle-to-gate global warming potential, as
37 defined in international organization for standardization standard
38 21930, and reports the overall percentage of supply chain specific
39 data included.

40 (8) "Full time" means an employee in a position that:

1 (a) The employer intends to be filled for at least 52 consecutive
2 weeks or 12 consecutive months, excluding any leaves of absence; and

3 (b) Requires the employee to work, excluding overtime hours, 35
4 hours per week for 52 consecutive weeks, 455 hours a quarter, or
5 1,820 hours during a period of 12 consecutive months.

6 (9) "Health product declaration" means a supply chain specific
7 health product declaration, as defined by the health product
8 declaration open standard maintained by the health product
9 declaration collaborative, that has robust methods for product
10 manufacturers and their ingredient suppliers to uniformly report and
11 disclose information about product contents and associated health
12 information.

13 (10) "Part time" means an employee in a position that:

14 (a) The employer intends to be filled for at least 52 consecutive
15 weeks or 12 consecutive months, excluding any leaves of absence; and

16 (b) Working hours are less than those required for a full-time
17 employee, as defined in this section.

18 (11) "Product and facility specific report" means an
19 environmental product declaration whereby the environmental impacts
20 can be attributed to a single manufacturer and a specific
21 manufacturing or production facility.

22 (12)(a) "Scope 2 greenhouse gas emissions" are indirect
23 greenhouse gas emissions associated with the purchase of electricity,
24 steam, heat, or cooling.

25 (b) For purposes of this section, "greenhouse gas" has the same
26 meaning as in RCW 70A.45.010.

27 (13) "Supplier code of conduct" means a policy created by a
28 manufacturer that outlines steps taken to ensure that its suppliers
29 adhere to ethical practices, such as compliance with child and forced
30 labor laws, antidiscrimination practices, freedom of association, and
31 safe workplace conditions.

32 (14) "Temporary" means an employee in a position that is intended
33 to be filled for a period of less than 52 consecutive weeks or 12
34 consecutive months. Positions in seasonal employment are temporary
35 positions.

36 (15) "Total case incident rate" means the number of work-related
37 injuries per 100 full-time equivalent workers during a one-year
38 period, as defined by the occupational safety and health
39 administration. Total case incident rate is calculated by multiplying
40 the number of occupational safety and health administration

1 recordable injuries and illnesses by 200,000 and dividing by number
2 of hours worked by all employees.

3 (16) "Working conditions" means the average number of employees
4 by employment type: Full time, part time, and temporary.

5 NEW SECTION. **Sec. 3.** (1)(a) Beginning July 1, 2025, an awarding
6 authority must require in all newly executed construction contracts
7 that the selected firm for a construction contract for a covered
8 project larger than 100,000 gross square feet submit the following
9 data for each covered product used before substantial completion,
10 including at a minimum:

11 (i) Product quantity;

12 (ii) A current environmental product declaration;

13 (iii) Health product declaration, if any, completed for the
14 product;

15 (iv) Manufacturer name and location, including state or province
16 and country;

17 (v) Supplier code of conduct, if any; and

18 (vi) Office of minority and women-owned business enterprises
19 certification, if any.

20 (b) Beginning July 1, 2027, an awarding authority must require in
21 all newly executed construction contracts that the selected firm for
22 a construction contract for a covered project submit the data
23 required by (a) of this subsection for each covered product used
24 before substantial completion.

25 (c) The selected firm for a contract for a covered project shall
26 provide the data required by this subsection for at least 90 percent
27 of the cost of each of the covered products used in the project.

28 (2) The selected firm for a contract for a covered project is
29 required to collect and submit from product suppliers the information
30 required in subsection (1)(a)(ii) through (vi) of this section. The
31 selected firm is not required to verify the information received from
32 product suppliers.

33 (3)(a) Beginning July 1, 2025, an awarding authority must require
34 in all newly executed construction contracts that the selected firm
35 for a construction contract for a covered project larger than 100,000
36 gross square feet to ask their suppliers to report for each covered
37 product used before substantial completion, including at a minimum:

38 (i) Names and locations, including state or province and country,
39 of the actual production facilities; and

1 (ii) Working conditions at the actual production facilities for
2 all employees, full-time employees, part-time employees, and
3 temporary employees. In cases in which the supplier does not have
4 this information, the selected firm for a contract for a covered
5 project must ask suppliers to provide a report on steps taken to
6 reasonably obtain the data and provide suppliers' self-reports to the
7 awarding authority.

8 (b) Beginning July 1, 2027, an awarding authority must require in
9 all newly executed construction contracts that the successful bidder
10 for a construction contract for a covered project to meet the
11 requirements of (a) of this subsection for each covered product used
12 before substantial completion.

13 (c) The selected firm is not required to verify the information
14 reported by product suppliers pursuant to this subsection.

15 (d) The selected firm for a contract for a covered project shall
16 meet the requirement in (a) of this subsection for at least 90
17 percent of the cost of each of the covered products used in the
18 project.

19 (4) If a supply chain specific environmental product declaration
20 is not available, a product and facility specific report may be
21 submitted.

22 (5) This section does not apply to a covered product for a
23 particular covered project if the awarding authority determines, upon
24 written justification provided to the department, that the
25 requirements in this section would cause a significant delay in
26 completion, significant increase in overall project cost, or result
27 in only one product supplier being able to provide the covered
28 product.

29 (6) An awarding authority must include the information and
30 reporting requirements in this section in a specification for bids
31 for a covered project.

32 (7) Subject to funds appropriated for this specific purpose, the
33 department may provide financial assistance to small businesses, as
34 defined in RCW 19.85.020, to help offset the costs to the small
35 business of producing an environmental product declaration required
36 under this section. Such financial assistance supports the production
37 of environmental product declarations and achievement of reductions
38 of embodied carbon in the built environment while ensuring that small
39 manufacturers are not put at a competitive disadvantage in state
40 contracting as a result of the requirements of this chapter.

1 (8) Compliance with the requirements in this section may not be
2 used as a basis for a waiver from apprenticeship utilization
3 requirements in any other statute, rule, regulation, or law.

4 NEW SECTION. **Sec. 4.** By July 1, 2025, and to the extent
5 practicable, specifications for a bid or proposal for a project
6 contract by an awarding authority may only include performance-based
7 specifications for concrete used as a structural material. Awarding
8 authorities may continue to use prescriptive specifications on
9 structural elements to support special designs and emerging
10 technology implementation.

11 NEW SECTION. **Sec. 5.** (1) The department must continue to
12 develop, maintain, and refine the publicly accessible database funded
13 by the 2021-2023 omnibus operating appropriations act and created by
14 the department in conjunction with the University of Washington
15 college of built environments for selected firms for contracts for
16 covered projects to submit the data required in section 3 of this act
17 to the department and to promote transparency. The department may
18 consult with the University of Washington college of built
19 environments.

20 (2) The database maintained pursuant to subsection (1) of this
21 section must publish global warming potential as reported in the
22 environmental product declarations.

23 (3) By July 1, 2025, the department must:

24 (a) Further elaborate covered product definitions using
25 applicable material industry standards;

26 (b) Develop measurement and reporting standards to ensure that
27 data is consistent and comparable, including standards for reporting
28 product quantities;

29 (c) Create model language for specifications, bid documents, and
30 contracts to support the implementation of section 3 of this act; and

31 (d) Produce an educational brief that:

32 (i) Provides an overview of embodied carbon;

33 (ii) Describes the appropriate use of environmental product
34 declarations, including the necessary preconditions for environmental
35 product declarations to be comparable;

36 (iii) Outlines reporting standards, including covered product
37 definitions, standards for reporting product quantities, and working
38 conditions;

1 (iv) Describes the data collection and reporting process for all
2 information required in section 3 (1)(a) and (3)(a) of this act;

3 (v) Provides instructions for the use of the database; and

4 (vi) Lists applicable product category rules for covered
5 products.

6 (4) The department may contract for the use of nationally or
7 internationally recognized databases of environmental product
8 declarations for purposes of implementing this section.

9 NEW SECTION. **Sec. 6.** (1) By December 1, 2024, the department
10 must convene a technical work group that includes the following
11 representatives:

12 (a) One industry professional in design, one industry
13 professional in structural design, one industry professional in
14 specification, and one industry professional in construction who are
15 recommended by leading associations of Washington business;

16 (b) Two representatives each from Washington manufacturers of:

17 (i) Steel;

18 (ii) Wood; and

19 (iii) Concrete;

20 (c) A representative from the department of enterprise services;

21 (d) A representative from the department of transportation;

22 (e) A representative from the department of ecology;

23 (f) One representative each from three environmental groups that
24 focus on embodied carbon and climate change;

25 (g) Three representatives from labor unions, including two from
26 unions that represent manufacturing workers and one representative
27 from the building and construction trades;

28 (h) A representative from the minority and women-owned business
29 community;

30 (i) A representative from the University of Washington college of
31 built environments; and

32 (j) Representatives of other agencies and independent experts as
33 necessary to meet the objectives of the technical work group as
34 described in this section.

35 (2) The department intends formation of subgroups with members
36 who have subject matter expertise or industry experience to develop
37 technical information, recommendations, and analysis specific to
38 individual material types, and the feasibility of supply chain
39 specific environmental product declarations. The recommendations

1 must, where possible, align with state and national principles and
2 laws for environmental product declaration development.

3 (3) The department may contract with the University of Washington
4 college of built environments in convening the technical work group.

5 (4) The purpose of the technical work group is to identify
6 opportunities for and barriers to growth of the use and production of
7 low carbon materials, promote high labor standards in manufacturing,
8 and preserve and expand low carbon materials manufacturing in
9 Washington.

10 (5) By September 1, 2025, the technical work group must submit a
11 report to the legislature and the governor that includes:

12 (a) A low carbon materials manufacturing plan that recommends
13 policies to preserve and grow the in-state manufacturing of low
14 carbon materials and accelerate industrial decarbonization. For this
15 plan, the technical work group must:

16 (i) Examine barriers and opportunities to maintain and grow a
17 robust in-state supply of low carbon building materials including,
18 but not limited to, state and domestic supply of raw materials and
19 other supply chain challenges, regulatory barriers, competitiveness
20 of local and domestic manufacturers, cost, and data availability from
21 local, state, national, and foreign product suppliers; and

22 (ii) Identify opportunities to encourage the continued conversion
23 to lower carbon cements, including the use of performance-based
24 specifications and allowing Type 1-L cement in specifications for
25 public projects;

26 (b) Recommendations for consistent treatment in the reporting for
27 covered products; and

28 (c) Consideration of how additional information relevant to
29 reducing embodied carbon through strategies including, but not
30 limited to, product life-cycle assessments could be incorporated into
31 future reporting.

32 (6) (a) By September 1, 2026, the technical work group must submit
33 a report on policy recommendations, including any statutory changes
34 needed, to the legislature and the governor. The report must consider
35 policies to expand the use and production of low carbon materials,
36 preserve and expand low carbon materials manufacturing in Washington,
37 including opportunities to encourage continued conversion to lower
38 carbon blended cements in public projects, and support living wage
39 manufacturing jobs.

40 (b) For this report, the technical work group must:

1 (i) Summarize data collected pursuant to section 3 of this act,
2 the case study analysis funded by the 2021-2023 omnibus operating
3 appropriations act, and the pilot projects funded by the 2021-2023
4 omnibus capital appropriations act. The summary must include product
5 quantities, global warming potential, health product declarations,
6 supplier codes of conduct, and any obstacles to the implementation of
7 this chapter;

8 (ii) Evaluate options for collecting reported working condition
9 information from product suppliers, including hourly wages, employee
10 benefits, and total case incident rates, and for aligning these
11 reporting requirements with existing reporting requirements for
12 preferential tax rates, credits, exemptions, and deferrals;

13 (iii) Make recommendations for improving environmental production
14 declaration data quality including, but not limited to, integrating
15 reporting on variability in facility, product, and upstream data for
16 key processes;

17 (iv) Make recommendations for consideration of scope 2 greenhouse
18 gas emissions mitigation through green power purchases, such as
19 energy attribute certificates and power purchase agreements;

20 (v) Identify barriers and opportunities to the effective use of
21 the database maintained under section 5 of this act and the data
22 collected pursuant to this chapter;

23 (vi) Identify emerging and foreseeable trends in local, state,
24 federal, and private policy on embodied carbon and the procurement
25 and use of low carbon materials and opportunities to promote
26 consistency across public and private embodied carbon and low carbon
27 materials policies, rules, and regulations; and

28 (vii) Recommend approaches to designing lower embodied carbon
29 state building projects.

30 (7) (a) The department may update reporting standards and
31 requirements based on input from the technical work group.

32 (b) The department must provide updated guidance on reporting
33 standards by January 1, 2027.

34 (8) This section expires January 1, 2028.

35 **Sec. 7.** RCW 43.88.0301 and 2021 c 54 s 4 are each amended to
36 read as follows:

37 (1) The office of financial management must include in its
38 capital budget instructions (~~(, beginning with its instructions for~~
39 ~~the 2003-05 capital budget,)~~) a request for "yes" or "no" answers for

1 the following additional informational questions from capital budget
2 applicants for all proposed major capital construction projects
3 valued over (~~10 million dollars~~) \$10,000,000 and required to
4 complete a predesign:

5 (a) For proposed capital projects identified in this subsection
6 that are located in or serving city or county planning under RCW
7 36.70A.040:

8 (i) Whether the proposed capital project is identified in the
9 host city or county comprehensive plan, including the capital
10 facility plan, and implementing rules adopted under chapter 36.70A
11 RCW;

12 (ii) Whether the proposed capital project is located within an
13 adopted urban growth area:

14 (A) If at all located within an adopted urban growth area
15 boundary, whether a project facilitates, accommodates, or attracts
16 planned population and employment growth;

17 (B) If at all located outside an urban growth area boundary,
18 whether the proposed capital project may create pressures for
19 additional development;

20 (b) For proposed capital projects identified in this subsection
21 that are requesting state funding:

22 (i) Whether there was regional coordination during project
23 development;

24 (ii) Whether local and additional funds were leveraged;

25 (iii) Whether environmental outcomes and the reduction of adverse
26 environmental impacts were examined.

27 (2) For projects subject to subsection (1) of this section, the
28 office of financial management shall request the required information
29 be provided during the predesign process of major capital
30 construction projects to reduce long-term costs and increase process
31 efficiency.

32 (3) The office of financial management, in fulfilling its duties
33 under RCW 43.88.030(6) to create a capital budget document, must take
34 into account information gathered under subsections (1) and (2) of
35 this section in an effort to promote state capital facility
36 expenditures that minimize unplanned or uncoordinated infrastructure
37 and development costs, support economic and quality of life benefits
38 for existing communities, and support local government planning
39 efforts.

1 (4) The office of community development must provide staff
2 support to the office of financial management and affected capital
3 budget applicants to help collect data required by subsections (1)
4 and (2) of this section.

5 (5) The office of financial management must include in its
6 capital budget instructions, beginning with the instructions for the
7 2025-2027 biennium, information informing awarding authorities, as
8 defined in section 2 of this act, of the requirements of chapter
9 39.--- RCW (the new chapter created in section 9 of this act),
10 including the data and information requirements in section 3 of this
11 act.

12 NEW SECTION. Sec. 8. This act may be known and cited as the buy
13 clean and buy fair Washington act.

14 NEW SECTION. Sec. 9. Sections 2 through 6 of this act
15 constitute a new chapter in Title 39 RCW.

16 NEW SECTION. Sec. 10. If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

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