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**SUBSTITUTE HOUSE BILL 2744**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House Capital Budget (originally sponsored by Representatives Doglio, Duerr, Davis, Fitzgibbon, and Ramel)

AN ACT Relating to improving environmental and social outcomes associated with the production of building materials; adding a new chapter to Title 39 RCW; and providing an expiration date.

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

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

(1) Washington state, through its extensive purchasing power, can accelerate necessary greenhouse gas reductions to protect public health, the environment, and conserve a livable climate while promoting a fair economy by incorporating greenhouse gas emissions information from throughout the supply chain and product life cycle and high labor standards into the procurement process.

(2) Incorporating emissions information and high labor standards will create awareness of companies that have invested in emissions reduction technologies and practices and responsible manufacturers that are promoting and protecting a twenty-first century workforce through wages, fringe benefits, and workforce training. It will encourage other companies to take action to reduce emissions and improve labor practices.

(3) The legislature has committed to carbon reduction measures by requiring action by public agencies. Those actions do not currently encourage public dollars for infrastructure projects to be spent in a way that is consistent with the state's carbon reduction goals as it relates to the global warming potential within the materials procured for these projects.

(4) State agencies must take global warming potential, or equivalent embodied carbon, into account in their planning and investment decisions with full life-cycle cost and global warming potential accounting that evaluates and compares infrastructure investments and alternatives.

(5) Great quantities of greenhouse gas emissions are often released during the material sourcing, manufacture, and transport of products used in public infrastructure projects.

(6) Establishing a system for comparing the emissions of a building material relative to other similar building materials with like performance characteristics, and within the same material categories, provides incentive for reduced greenhouse gas emissions.

(7) Providing financial assistance to small manufacturers to facilitate the production of environmental product declarations, and the reporting mechanism based on life-cycle analysis, will ensure that small manufacturers are not put at a competitive disadvantage in state contracting as a result of the requirements of this chapter, and will improve the state's ability to make purchasing decisions that align with state carbon reduction goals.

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

(1) "Awarding authority" means the following:

(a) The department of enterprise services;

(b) Institutions of higher education as defined in RCW 28B.92.030;

(c) Natural resource agencies, including the department of natural resources, state parks and recreation commission, and department of fish and wildlife;

(d) Any other state governmental entity that receives funding from the omnibus capital appropriations act for a public works project contracted directly by the state agency; and

(e) The department of transportation.

(2) "Department" means the department of commerce.

(3) "Eligible materials" means the following:

(a) Concrete including, but not limited to, cast in place that is used as a structural material, shotcrete, and precast;

(b) Carbon steel rebar and post tensioning tendons;

(c) Steel that is used as a structural material;

(d) Concrete masonry units that are used as a structural material;

(e) Wood used as a structural material including, but not limited to, wood composites and wood laminated products; and

(f) Gauge metal products for roof and floor decking, wall studs, and floor system studs.

(4) "Eligible project" means: (a) A construction project larger than fifty thousand gross square feet of space as defined in the Washington state building code (chapter 51-50 WAC); (b) a building renovation project when greater than fifty percent of the gross square footage of space is being renovated and the project is larger than fifty thousand gross square feet; or (c) a state transportation system project funded or carried out by Washington state department of transportation that (i) has a cost in excess of one million dollars, and (ii) uses more than a de minimis amount of eligible materials.

(5) "Environmental product declaration" means a facility specific type III environmental product declaration, as defined by the international organization for standardization standard 14025 as that standard existed as of January 1, 2020, or similarly robust life-cycle assessment methods that have uniform standards in data collection consistent with international organization for standardization standard 14025, industry acceptance, and integrity.

(6) "Facility specific" means an environmental product declaration with data representing the actual production facilities that contribute to at least eighty percent of the total global warming potential, as measured and reported in the environmental product declaration, of the manufacturing of the eligible material.

(7) "Greenhouse gas" has the same meaning as in RCW 70.235.010.

(8) "Lower carbon" means a comparatively lower global warming potential measure reported in an environmental product declaration.

(9)(a) "Structural material" means a building material or component that:

(i) Supports gravity loads, lateral loads, or both, as the primary structure of the building or buildings including, but not limited to, the foundations, bearing walls, shear walls, columns, beams, slabs, and lateral bracing required to maintain the stability of the final structure as a whole; or

(ii) Is used in a state transportation system project and supports gravity loads or is a primary lateral system resisting wind and earthquake loads.

(b) Structural materials and components include both below grade and elevated above grade structures.

NEW SECTION. **Sec.**  (1)(a) Beginning July 1, 2020, an awarding authority shall require the selected firm for a contract for an eligible project to submit a current environmental product declaration for each eligible material used for which an environmental product declaration is available.

(b) Beginning July 1, 2021, an awarding authority shall require the selected firm for a contract for an eligible project to submit a current environmental product declaration for each eligible material used.

(c) Beginning July 1, 2022, an awarding authority shall require the selected firm for a contract for an eligible project to submit a current environmental product declaration for each eligible material used before the material is installed in the project.

(d) Environmental product declarations must be provided for at least ninety percent of the mass of the eligible materials used in the project.

(2) Each awarding authority must annually transmit to the department a copy of each environmental product declaration that the awarding authority receives along with the material quantities of all eligible materials used on the project.

(a) The department must track the data submitted in subsection (1) of this section in a publicly accessible database with project anonymized.

(b) Beginning January 1, 2021, environmental product declarations must include minimal data quality assessment metadata as specified by the Q metadata program or other similar procurement program.

(c) Beginning January 1, 2025, environmental product declarations must report actual data quality assessment including variability in facility, product, and upstream data for key processes.

(3) An awarding authority may amend their fee schedule to accommodate this chapter.

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

(5) All recognized environmental product declarations shall follow nationally or internationally recognized rules for producing environmental product declarations for the subject material, follow standards established for life-cycle analysis material reporting of global warming potentials, and conform to ISO standards 14025, 14040, 14044, and 21930, as those standards existed as of January 1, 2020.

(6) Subject to funds made available for this purpose, the department may provide financial assistance to small businesses, as defined in RCW 19.85.020, equal to no less than half of the cost to the small business of producing an environmental product declaration required under this section.

NEW SECTION. **Sec.**  (1)(a) Beginning January 1, 2022, an awarding authority shall require the selected firm for a contract for an eligible project to submit the following information for facilities for which environmental product declarations are submitted pursuant to section 3 of this act:

(i) The locations of the facilities;

(ii) The facilities' compliance with domestic labor law in the countries where they produce goods or services over the preceding five years;

(iii) The lowest wages received by workers at the facilities;

(iv) Whether any explicit neutrality agreement exists on any issue involving the organization of employees of the facilities;

(v) Any requirement that employees of the facilities sign predispute arbitration agreements regarding claims for employment discrimination, sexual assault, or sexual harassment.

(b) In cases where the information is unattainable, the selected firm for an eligible project may report on efforts undertaken to collect the information.

(2) Beginning July 1, 2020, until January 1, 2022, awarding authorities must encourage, but may not require, selected firms to comply with the requirements of subsection (1) of this section.

(3) For purposes of this section, "domestic labor law" includes international standards that are applicable to employers under domestic law. Examples of these laws include, but are not limited to, wages and benefits, hours of work, harassment and abuse, freedom of association and collective bargaining, and prohibition of forced labor, child labor, or discrimination.

(4) Annually, each awarding authority must transmit to the department a copy of the information received for each eligible project in subsection (1) of this section.

(5) The department must track the data submitted pursuant to subsection (1) of this section in a publicly accessible database with projects anonymized.

NEW SECTION. **Sec.**  The office of financial management shall incorporate requirements for state agencies to consider lower carbon building materials and domestic labor law compliance declarations within existing business processes and tools including, but not limited to, facility planning, predesign, and budget instructions.

NEW SECTION. **Sec.**  In carrying out its duties under this chapter, an awarding authority shall strive to achieve a continuous reduction of emissions over time and improve labor standards in manufacturing.

NEW SECTION. **Sec.**  (1) By January 1, 2025, and in conformance with RCW 43.01.036, the department shall submit a report to the legislature on any obstacles to the implementation of this chapter, and the effectiveness of this chapter to reduce global warming potential and improve labor standards in manufacturing.

(2) This section expires January 1, 2026.

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

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 39 RCW.

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

**--- END ---**