

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0920.01 Nicole Myers x4326

SENATE BILL 20-159

SENATE SPONSORSHIP

Hansen,

HOUSE SPONSORSHIP

(None),

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO LIMIT THE GLOBAL WARMING POTENTIAL
102 FOR CERTAIN MATERIALS USED IN PUBLIC PROJECTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The department of personnel (department) is required to establish a maximum acceptable global warming potential for each category of eligible materials used in a public project. The bill specifies which building materials are eligible materials.

The department is required to set the maximum acceptable global warming potential at the industry average of facility-specific global

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

warming potential emissions for that material and to express it as a number that states the maximum acceptable facility-specific global warming potential for each category of eligible materials.

The department is required to submit a report to the general assembly regarding the method it used to develop the maximum global warming potential for each category of eligible materials and may make periodic downward adjustments to the number to reflect industry improvements.

For invitations for bid for public projects issued after a certain date, the contractor that is awarded the contract is required to submit to the contracting agency of government a current facility-specific environmental product declaration for each eligible material proposed to be used in the public project.

A contracting agency of government is required to include in a specification for bids for a public project that the facility-specific global warming potential for any eligible material that will be used in the project shall not exceed the maximum acceptable global warming potential for that material determined by the department.

A contractor that is awarded a contract for a public project is prohibited from installing any eligible material on the project until the contractor submits a facility-specific environmental product declaration for that material.

The bill specifies that in administering the requirements of the bill, an agency of government is required to strive to achieve a continuous reduction of greenhouse gas emissions over time. The department is required to submit a report to the general assembly regarding the implementation of the bill.

The bill includes the facility-specific global warming potential for each eligible material that will be used in the project and the cost of avoided emissions for the project in the factors to be considered when making an award determination for a competitive sealed best value bid.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Climate change will have devastating global impacts;

5 (b) All scientific evidence points to the need for Colorado and the
6 world to reduce greenhouse gas emissions to avert the worst effects of
7 climate change. Climate change impacts are already apparent in Colorado,

1 where scientists have determined that annual temperature increases and
2 a long-term drought are consequences of human-induced climate change.

3 (c) The general assembly has committed to reduce greenhouse
4 gases through numerous statutes requiring regulatory and other action by
5 public agencies. Those regulations and actions do not currently encourage
6 public dollars for infrastructure projects to be spent in a way that is
7 consistent with the state's goals to reduce greenhouse gas emissions.

8 (d) Several executive orders in Colorado have highlighted the
9 importance of reducing greenhouse gas emissions in the state, supporting
10 the state's clean energy transition, maintaining progress on clean vehicles,
11 and supporting a transition to zero emission vehicles;

12 (e) Great quantities of emissions are released during the
13 manufacture and transport of products used in public construction
14 projects;

15 (f) Colorado, through its extensive purchasing power, can improve
16 environmental outcomes and accelerate necessary greenhouse gas
17 reductions to protect public health, the environment, and conserve a
18 livable climate by incorporating emissions information from throughout
19 the supply chain and product life cycle into procurement decisions, and
20 using that information to help direct expenditure; and

21 (g) Incorporating emissions information will acknowledge those
22 companies that have invested in emissions reduction technologies and
23 practices. It will encourage other companies to take action to reduce
24 emissions to become more competitive in the Colorado bidding process.

25 (2) The general assembly further finds and declares that there is
26 great potential for Colorado to reduce greenhouse gas emissions in public
27 construction projects without imposing an additional cost on those

1 projects.

2 **SECTION 2.** In Colorado Revised Statutes, **add** 24-92-116 as
3 follows:

4 **24-92-116. Maximum global warming potential for materials**
5 **used in public projects - facility-specific environmental product**
6 **declaration - short title - rules - report - definitions.** (1) THE SHORT
7 TITLE OF THIS SECTION IS THE "BUY CLEAN COLORADO ACT".

8 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF PERSONNEL.

11 (b) "ELIGIBLE MATERIALS" MEANS:

12 (I) CARBON STEEL REBAR;

13 (II) FLAT GLASS;

14 (III) MINERAL WOOL BOARD INSULATION;

15 (IV) STRUCTURAL STEEL;

16 (V) CONCRETE; AND

17 (VI) CEMENT.

18 (c) "GREENHOUSE GAS" HAS THE SAME MEANING AS SET FORTH IN
19 SECTION 25-7-140 (6).

20 (3) (a) BY JANUARY 1, 2022, THE DEPARTMENT SHALL ESTABLISH
21 AND PROMULGATE IN RULES, IN ACCORDANCE WITH THE "STATE
22 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF THIS TITLE 24, A
23 MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH
24 CATEGORY OF ELIGIBLE MATERIALS USED IN A PUBLIC PROJECT IN
25 ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:

26 (I) THE DEPARTMENT SHALL SET THE MAXIMUM ACCEPTABLE
27 GLOBAL WARMING POTENTIAL AT THE INDUSTRY AVERAGE OF

1 FACILITY-SPECIFIC GLOBAL WARMING POTENTIAL EMISSIONS FOR THAT
2 MATERIAL. THE DEPARTMENT SHALL DETERMINE THE INDUSTRY AVERAGE
3 BY CONSULTING NATIONALLY OR INTERNATIONALLY RECOGNIZED
4 DATABASES OF ENVIRONMENTAL PRODUCT DECLARATIONS.

5 (II) THE DEPARTMENT SHALL EXPRESS THE MAXIMUM ACCEPTABLE
6 GLOBAL WARMING POTENTIAL AS A NUMBER THAT STATES THE MAXIMUM
7 ACCEPTABLE FACILITY-SPECIFIC GLOBAL WARMING POTENTIAL FOR EACH
8 CATEGORY OF ELIGIBLE MATERIALS. THE GLOBAL WARMING POTENTIAL
9 SHALL BE PROVIDED IN A MANNER THAT IS CONSISTENT WITH CRITERIA IN
10 AN ENVIRONMENTAL PRODUCT DECLARATION.

11 (b) IN ESTABLISHING A MAXIMUM ACCEPTABLE GLOBAL WARMING
12 POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS USED IN A
13 PUBLIC PROJECT, THE DEPARTMENT MAY CONSULT WITH ANY OTHER
14 RELEVANT DEPARTMENT OR DIVISION OF STATE GOVERNMENT.

15 (c) ON OR BEFORE JANUARY 1, 2022, THE DEPARTMENT SHALL
16 SUBMIT A REPORT TO THE GENERAL ASSEMBLY THAT DESCRIBES THE
17 METHOD THAT THE DEPARTMENT USED TO DEVELOP THE MAXIMUM
18 GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE
19 MATERIALS.

20 (d) BY JANUARY 1, 2024, AND EVERY FOUR YEARS THEREAFTER,
21 THE DEPARTMENT SHALL REVIEW THE MAXIMUM ACCEPTABLE GLOBAL
22 WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS, AND
23 MAY ADJUST THE NUMBER DOWNWARD FOR ANY ELIGIBLE MATERIAL TO
24 REFLECT INDUSTRY IMPROVEMENTS IF THE DEPARTMENT DETERMINES
25 THAT THE INDUSTRY AVERAGE HAS CHANGED. THE DEPARTMENT SHALL
26 NOT ADJUST THE NUMBER UPWARD FOR ANY ELIGIBLE MATERIAL.

27 (4) (a) FOR INVITATION FOR BIDS FOR CONTRACTS FOR PUBLIC

1 PROJECTS ISSUED ON OR AFTER JULY 1, 2021, AN AGENCY OF GOVERNMENT
2 SHALL REQUIRE THE CONTRACTOR WHO IS AWARDED THE CONTRACT TO
3 SUBMIT A CURRENT FACILITY-SPECIFIC ENVIRONMENTAL PRODUCT
4 DECLARATION, TYPE III, AS DEFINED BY THE INTERNATIONAL
5 ORGANIZATION FOR STANDARDIZATION STANDARD 14025:2006, OR
6 SIMILARLY ROBUST LIFE CYCLE ASSESSMENT METHODS THAT HAVE
7 UNIFORM STANDARDS IN DATA COLLECTION CONSISTENT WITH THE
8 INTERNATIONAL ORGANIZATION FOR STANDARDIZATION STANDARD
9 14025:2006, INDUSTRY ACCEPTANCE, AND INTEGRITY, FOR EACH ELIGIBLE
10 MATERIAL PROPOSED TO BE USED IN THE PUBLIC PROJECT.

11 (b) AN AGENCY OF GOVERNMENT SHALL INCLUDE IN A
12 SPECIFICATION FOR BIDS FOR A PUBLIC PROJECT THAT THE
13 FACILITY-SPECIFIC GLOBAL WARMING POTENTIAL FOR ANY ELIGIBLE
14 MATERIAL THAT WILL BE USED IN THE PROJECT DOES NOT EXCEED THE
15 MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR THAT
16 MATERIAL DETERMINED PURSUANT TO SUBSECTION (3) OF THIS SECTION.
17 AN AGENCY OF GOVERNMENT MAY INCLUDE IN A SPECIFICATION FOR BIDS
18 FOR A PUBLIC PROJECT A FACILITY-SPECIFIC GLOBAL WARMING POTENTIAL
19 FOR ANY ELIGIBLE MATERIAL THAT IS LOWER THAN THE MAXIMUM
20 ACCEPTABLE GLOBAL WARMING POTENTIAL FOR THAT MATERIAL AS
21 DETERMINED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

22 (c) A CONTRACTOR THAT IS AWARDED A CONTRACT FOR A PUBLIC
23 PROJECT SHALL NOT INSTALL ANY ELIGIBLE MATERIALS ON THE PROJECT
24 UNTIL THE CONTRACTOR SUBMITS A FACILITY-SPECIFIC ENVIRONMENTAL
25 PRODUCT DECLARATION FOR THAT MATERIAL PURSUANT TO SUBSECTION
26 (4)(a) OF THIS SECTION.

27 (5) IN ADMINISTERING THIS SECTION, AN AGENCY OF GOVERNMENT

1 SHALL STRIVE TO ACHIEVE A CONTINUOUS REDUCTION OF GREENHOUSE
2 GAS EMISSIONS OVER TIME.

3 (6) ON OR BEFORE JANUARY 1, 2023, THE DEPARTMENT SHALL
4 SUBMIT A REPORT TO THE GENERAL ASSEMBLY REGARDING ANY
5 OBSTACLES TO THE IMPLEMENTATION OF THIS SECTION, AND THE
6 EFFECTIVENESS OF THIS SECTION IN REDUCING GLOBAL WARMING
7 POTENTIAL. IN PRODUCING THE REPORT, THE DEPARTMENT MAY CONSULT
8 WITH ANY OTHER RELEVANT DEPARTMENT OR DIVISION OF STATE
9 GOVERNMENT.

10 **SECTION 3.** In Colorado Revised Statutes, 24-92-103.5, **amend**
11 (3)(g); and **add** (3)(i) and (3)(j) as follows:

12 **24-92-103.5. Construction of public projects - invitation for**
13 **best value bids.** (3) The invitation for competitive sealed best value bids
14 must identify the evaluation factors upon which the award will be made.
15 When making the award determination, the responsible officer shall
16 evaluate the factors specified in the invitation for bids and shall not
17 evaluate any other factors other than those specified in the invitation for
18 bids. The factors that must be included in the invitation for bids and that
19 the responsible officer shall consider include, but need not be limited to:

20 (g) The bidder's job standards, including the bidder's method of
21 personnel procurement, employment of Colorado workers, workforce
22 development and long-term career opportunities of workers, the
23 availability of training programs, including apprenticeships approved by
24 the United States department of labor, the benefits provided to workers,
25 including health care and defined benefit or defined contribution
26 retirement benefits, and whether the bidder pays industry-standard wages;
27 **and**

1 (i) THE FACILITY-SPECIFIC GLOBAL WARMING POTENTIAL FOR EACH
2 ELIGIBLE MATERIAL, AS DEFINED IN SECTION 24-92-116 (2)(b), PROPOSED
3 TO BE USED IN THE PROJECT AS REQUIRED TO BE SUBMITTED PURSUANT TO
4 SECTION 24-92-116 (4); AND

5 (j) THE COST OF AVOIDED EMISSIONS FOR THE PROJECT,
6 BENCHMARKED PURSUANT TO SECTION 40-3.2-106 (4).

7 **SECTION 4. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2020 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.