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Final Fiscal Note

Drafting Number: LLS 21-0322 Date: August 24, 2021
Prime Sponsors: Rep. Barnett; McLachlan Sen. Hansen Bill Status: Signed into Law
Fiscal Analyst: Matt Bishop | 303-866-4796 Matt.Bishop@state.co.us

Bill Topic: GLOBAL WARMING POTENTIAL FOR PUB PROJECT MATERIALS

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill requires the Department of Personnel and Administration and the Department of Transportation to establish maximum acceptable global warming potentials for certain construction materials used in public projects. It increases state expenditures beginning in FY 2021-22.

Appropriation Summary: For FY 2021-22, the bill requires and includes an appropriation of \$75,342 to the Department of Personnel and Administration.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 21-1303

Table with 3 columns: Category, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and TABOR Refund.

Summary of Legislation

The bill creates policies that affect the usage of construction materials in certain public projects.

Capital construction projects. No later than January 2024, the bill requires the Office of the State Architect (OSA) in the Department of Personnel and Administration to establish a maximum acceptable global warming potential for certain materials used in eligible public projects, which excludes maintenance projects, roads, highways, and bridges. Every four years starting January 1, 2026, OSA must review the standard and may adjust it downward for any eligible material. For any contract solicitation for an eligible project, the bill requires the selected designer to include a current environmental product declaration or similar information in the final construction documents. OSA may waive these requirements under certain conditions.

A contractor awarded a contract for an eligible project is required to submit an environmental product declaration for eligible materials in the project. If any eligible material is not reasonably priced or not available on a reasonable basis, the soliciting agency may waive the requirement and report the waiver to OSA.

Beginning in 2026, OSA is required to prepare an annual report for the General Assembly regarding methods used to develop maximum global warming potential and any lessons learned on quantifying embodied carbon in building materials.

Transportation projects. By January 2025, the Department of Transportation (CDOT) must establish a policy to determine and record greenhouse gas emissions from certain materials used in public projects. Every four years starting January 2027, CDOT must review the policy and may adjust it to become more stringent, based on industry conditions.

A contractor awarded a contract for a public project issued on or after July 1, 2022, is required to submit an environmental product declaration or similar information for each eligible material. If any eligible material is not reasonably priced or not available on a reasonable basis, CDOT may waive the requirement.

CDOT is required to annually present to the Transportation Legislation Review Committee starting in 2026 regarding the method used to determine policy requirements and any lessons learned on quantified carbon in building materials.

State Expenditures

The bill increases General Fund expenditures in the Department of Personnel and Administration by \$90,476 and 0.9 FTE in FY 2021-22, and \$91,997 and 1.0 FTE in FY 2022-23. Costs are shown in Table 2 and described below.

**Table 2
Expenditures Under HB 21-1303**

	FY 2021-22	FY 2022-23
Department of Personnel and Administration		
Personal Services	\$67,792	\$73,955
Operating Expenses	\$1,350	\$1,350
Capital Outlay Costs	\$6,200	-
Centrally Appropriated Costs ¹	\$15,134	\$16,692
Total Cost	\$90,476	\$91,997
Total FTE	0.9 FTE	1.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Personnel and Administration. The Office of the State Architect requires 1.0 FTE engineer-in-training II to develop the embodied carbon policy and to provide training and guidance to state agencies. Staff resources are required beginning in FY 2021-22 given the long lead time for planning and developing capital projects. Expenditures include standard operating costs and capital outlay, and account for the General Fund pay date shift.

Department of Transportation. Workload will increase for CDOT to develop its embodied carbon policy by January 2025. Because this policy will be similar to that previously established by OSA, it is expected that this work can be accomplished within existing appropriations. Workload may further increase for monitoring, administering, and updating the policy.

All state agencies. The bill may increase future costs for public projects, if materials that do not exceed the maximum acceptable global warming potential are more costly than other available materials. However, because agencies may grant or seek waivers, this increase may be mitigated.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$15,134 in FY 2021-22, and \$16,692 in FY 2022-23.

Effective Date

The bill was signed into law by the Governor on July 6, 2021, and takes effect on September 7, 2021, assuming no referendum petition is filed.

State Appropriations

For FY 2021-22, the bill requires and includes a General Fund appropriation of \$75,342 and 0.9 FTE to the Department of Personnel and Administration.

State and Local Government Contacts

Information Technology
Personnel

Law
Transportation