A BILL FOR AN ACT

CONCERNING MEASURES TO LIMIT THE GLOBAL WARMING POTENTIAL
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
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.

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

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

   (a) Climate change will have devastating global impacts;

   (b) All scientific evidence points to the need for Colorado and the world to reduce greenhouse gas emissions to avert the worst effects of climate change. Climate change impacts are already apparent in Colorado,
where scientists have determined that annual temperature increases and
a long-term drought are consequences of human-induced climate change.

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

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

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

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

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

(2) The general assembly further finds and declares that there is
great potential for Colorado to reduce greenhouse gas emissions in public
construction projects without imposing an additional cost on those
SECTION 2. In Colorado Revised Statutes, add 24-92-116 as follows:


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

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

(b) "ELIGIBLE MATERIALS" MEANS:

(I) CARBON STEEL REBAR;

(II) FLAT GLASS;

(III) MINERAL WOOL BOARD INSULATION;

(IV) STRUCTURAL STEEL;

(V) CONCRETE; AND

(VI) CEMENT.

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

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

(I) THE DEPARTMENT SHALL SET THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL AT THE INDUSTRY AVERAGE OF SB20-159
FACILITY-SPECIFIC GLOBAL WARMING POTENTIAL EMISSIONS FOR THAT
MATERIAL. THE DEPARTMENT SHALL DETERMINE THE INDUSTRY AVERAGE
BY CONSULTING NATIONALLY OR INTERNATIONALLY RECOGNIZED
DATABASES OF ENVIRONMENTAL PRODUCT DECLARATIONS.

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

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

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

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

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

(b) AN AGENCY OF GOVERNMENT SHALL 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 DOES NOT EXCEED THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR THAT MATERIAL DETERMINED PURSUANT TO SUBSECTION (3) OF THIS SECTION. AN AGENCY OF GOVERNMENT MAY INCLUDE IN A SPECIFICATION FOR BIDS FOR A PUBLIC PROJECT A FACILITY-SPECIFIC GLOBAL WARMING POTENTIAL FOR ANY ELIGIBLE MATERIAL THAT IS LOWER THAN THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR THAT MATERIAL AS DETERMINED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

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

(5) IN ADMINISTERING THIS SECTION, AN AGENCY OF GOVERNMENT
SHALL STRIVE TO ACHIEVE A CONTINUOUS REDUCTION OF GREENHOUSE GAS EMISSIONS OVER TIME.

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

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

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

(g) The bidder's job standards, including the bidder's method of personnel procurement, employment of Colorado workers, workforce development and long-term career opportunities of workers, the availability of training programs, including apprenticeships approved by the United States department of labor, the benefits provided to workers, including health care and defined benefit or defined contribution retirement benefits, and whether the bidder pays industry-standard wages; and
(i) The facility-specific global warming potential for each eligible material, as defined in Section 24-92-116 (2)(b), proposed to be used in the project as required to be submitted pursuant to section 24-92-116 (4); and

(j) The cost of avoided emissions for the project, benchmarked pursuant to section 40-3.2-106 (4).

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