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.

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 OFFICE OF THE STATE ARCHITECT WITHIN THE DEPARTMENT SHALL ESTABLISH BY POLICY 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 BASE THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL ON THE INDUSTRY AVERAGE OF GLOBAL WARMING POTENTIAL EMISSIONS FOR THAT MATERIAL. THE OFFICE OF THE
STATE ARCHITECT WITHIN THE DEPARTMENT SHALL DETERMINE THE
INDUSTRY AVERAGE BY CONSULTING NATIONALLY OR INTERNATIONALLY
RECOGNIZED DATABASES OF ENVIRONMENTAL PRODUCT DECLARATIONS
AND SHALL INCLUDE TRANSPORTATION-RELATED EMISSIONS AS PART OF
THE GLOBAL WARMING POTENTIAL EMISSIONS.

(II) The department shall express the maximum acceptable
global warming potential as a number that states the maximum
acceptable 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 for any eligible material to reflect
industry conditions. The department shall not adjust the
number upward for any eligible material.

(4) (a) (I) For invitation for bids for contracts for the
DESIGN OF PUBLIC PROJECTS ISSUED ON OR AFTER JULY 1, 2022, AN AGENCY OF GOVERNMENT SHALL REQUIRE THE DESIGNER WHO IS AWARDED THE CONTRACT TO SUBMIT A CURRENT 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, AS SET BY POLICY BY THE OFFICE OF THE STATE ARCHITECT WITHIN THE DEPARTMENT FOR EACH ELIGIBLE MATERIAL PROPOSED TO BE USED IN THE PUBLIC PROJECT THAT MEET THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS OR, IN THE ALTERNATIVE, A MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR THE PROJECT IN THE AGGREGATE.

(II) IF A PRODUCT THAT MEETS THE MAXIMUM GLOBAL WARMING POTENTIAL FOR A CATEGORY OF ELIGIBLE MATERIALS IS NOT PRICED OR IS NOT AVAILABLE ON A REASONABLE BASIS AT THE TIME OF DESIGN OR CONSTRUCTION, THE OFFICE OF THE STATE ARCHITECT WITHIN THE DEPARTMENT MAY WAIVE THE REQUIREMENTS OF THIS SECTION FOR THAT PRODUCT.

(b) FOR INVITATION FOR BIDS FOR CONTRACTS FOR PUBLIC PROJECTS ISSUED ON OR AFTER JULY 1, 2022, AN AGENCY OF GOVERNMENT SHALL SPECIFY THE ELIGIBLE MATERIALS THAT WILL BE USED IN THE PROJECT. AN AGENCY OF GOVERNMENT MAY INCLUDE IN A SPECIFICATION FOR BIDS FOR A PUBLIC PROJECT A 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 AN ENVIRONMENTAL PRODUCT
DECLARATION FOR THAT MATERIAL PURSUANT TO SUBSECTION (4)(a) OF
THIS SECTION. THE ENVIRONMENTAL PRODUCT DECLARATION SHALL BE
DEEMED APPROVED IF IT COMPLIES WITH THE ORIGINAL SPECIFICATION. IF
AN ENVIRONMENTAL PRODUCT DECLARATION IS NOT AVAILABLE FOR AN
ELIGIBLE MATERIAL, THE CONTRACTOR SHALL NOTIFY THE AGENCY OF
GOVERNMENT AND INSTALL THE ELIGIBLE MATERIAL AS ORIGINALLY
SPECIFIED. IF A PRODUCT MEETING THE MAXIMUM GLOBAL WARMING
POTENTIAL FOR A CATEGORY OF ELIGIBLE MATERIALS IS NOT PRICED OR IS
NOT AVAILABLE TO THE CONTRACTOR ON A REASONABLE BASIS, THE
AGENCY OF GOVERNMENT MAY WAIVE THE REQUIREMENTS OF THIS
SECTION FOR THAT PRODUCT. THE AGENCY OF GOVERNMENT SHALL
REPORT WAIVERS TO THE OFFICE OF THE STATE ARCHITECT WITHIN THE
DEPARTMENT.

(5) IN ADMINISTERING THIS SECTION, AN AGENCY OF GOVERNMENT
SHALL STRIVE TO ACHIEVE A CONTINUOUS REDUCTION OF GREENHOUSE
GAS EMISSIONS OVER TIME. REDUCTION OF GREENHOUSE GAS EMISSIONS
ACHIEVED UNDER THIS SECTION SHALL BE CREDITED UNDER THE PROCESS
CREATED IN SECTION 25-7-105 (1)(e).

(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. 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.