

House Bill 3161

Sponsored by Representative RAYFIELD

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Department of Transportation to establish pilot program to assess how products that department or contractor for department procures affect emissions of carbon dioxide. Provides that pilot program must require prospective contractors to declare environmental product cost of certain products in response to invitation to bid for public improvement contract. Requires department to determine lowest responsible bidder after adding environmental product cost to product.

Provides that local contracting agency may adopt practices of department.

Requires all state contracting agencies to adopt practices of department beginning January 1, 2021.

Requires Department of Environmental Quality to adopt and keep updated rules for calculating environmental product cost of certain products.

Becomes operative January 1, 2018.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public contracting preferences in procuring certain materials; and declaring an emer-
3 gency.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. (1) **As used in this section:**

6 (a) **“Environmental product cost” means the cost, denominated in dollars, of a product’s**
7 **life cycle environmental impact, calculated in accordance with rules the Department of En-**
8 **vironmental Quality adopts under subsection (5) of this section.**

9 (b) **“Environmental product declaration” means a product-specific measurement of the**
10 **life cycle environmental impact of a product, from the point of raw material extraction to**
11 **the point of manufacture, that is certified by a third party and in accordance with interna-**
12 **tional standards.**

13 (2) **The Department of Transportation shall establish a pilot program for assessing how**
14 **products that the department or a contractor for the department procures in connection**
15 **with a public improvement contract affect levels of carbon dioxide in the atmosphere. The**
16 **pilot program must:**

17 (a) **Require a prospective contractor to respond to an invitation to bid for a public im-**
18 **provement contract with a disclosure of the environmental product cost of all concrete the**
19 **prospective contractor expects to manufacture or purchase in the course of constructing,**
20 **reconstructing or renovating the public improvement.**

21 (b) **Require the department to determine the lowest responsible bidder for a public im-**
22 **provement contract after adding the environmental product cost of concrete to each pro-**
23 **spective contractor’s bid, if the public improvement will use concrete.**

24 (3) **Every public improvement contract that the Department of Transportation awards**
25 **under the pilot program must require contractors to determine the lowest responsible bidder**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 for subcontracts after adding the environmental product cost of concrete to each prospective
 2 subcontractor's bid, if the work the subcontractor will perform uses concrete.

3 (4) A local contracting agency may choose to adopt the requirements set forth in sub-
 4 sections (2) and (3) of this section in awarding a public improvement contract.

5 (5) The Department of Environmental Quality shall adopt and keep updated rules for
 6 calculating the environmental product cost of products the Department of Transportation
 7 or a contractor procures under the pilot program described in this section. The calculation
 8 must assess the environmental product cost as a dollar cost per metric ton of carbon emis-
 9 sions for the product, based on information in a environmental product declaration.

10 **SECTION 2.** Section 1 of this 2017 Act is amended to read:

11 (1) As used in this section:

12 (a) "Environmental product cost" means the cost, denominated in dollars, of a product's life cy-
 13 cle environmental impact, calculated in accordance with rules the Department of Environmental
 14 Quality adopts under subsection (5) of this section.

15 (b) "Environmental product declaration" means a product-specific measurement of the life cycle
 16 environmental impact of a product, from the point of raw material extraction to the point of manu-
 17 facture, that is certified by a third party and in accordance with international standards.

18 (2) The Department of Transportation shall establish a pilot program for assessing how products
 19 that the department or a contractor for the department procures in connection with a public im-
 20 provement contract affect levels of carbon dioxide in the atmosphere. The pilot program must:

21 (a) Require a prospective contractor to respond to an invitation to bid for a public improvement
 22 contract with a disclosure of the environmental product cost of all concrete **and asphalt** the pro-
 23 spective contractor expects to manufacture or purchase in the course of constructing, reconstructing
 24 or renovating the public improvement.

25 (b) Require the department to determine the lowest responsible bidder for a public improvement
 26 contract after adding the environmental product cost of concrete **and asphalt** to each prospective
 27 contractor's bid, if the public improvement will use concrete **and asphalt**.

28 (3) Every public improvement contract that the Department of Transportation awards under the
 29 pilot program must require contractors to determine the lowest responsible bidder for subcontracts
 30 after adding the environmental product cost of concrete **and asphalt** to each prospective
 31 subcontractor's bid, if the work the subcontractor will perform uses concrete **and asphalt**.

32 (4) A local contracting agency may choose to adopt the requirements set forth in subsections (2)
 33 and (3) of this section in awarding a public improvement contract.

34 (5) The Department of Environmental Quality shall adopt and keep updated rules for calculating
 35 the environmental product cost of products the Department of Transportation or a contractor pro-
 36 cures under the pilot program described in this section. The calculation must assess the environ-
 37 mental product cost as a dollar cost per metric ton of carbon emissions for the product, based on
 38 information in a environmental product declaration.

39 **SECTION 3.** Section 1 of this 2017 Act, as amended by section 2 of this 2017 Act, is amended
 40 to read:

41 (1) As used in this section:

42 (a) "Environmental product cost" means the cost, denominated in dollars, of a product's life cy-
 43 cle environmental impact, calculated in accordance with rules the Department of Environmental
 44 Quality adopts under subsection (5) of this section.

45 (b) "Environmental product declaration" means a product-specific measurement of the life cycle

1 environmental impact of a product, from the point of raw material extraction to the point of manu-
 2 facture, that is certified by a third party and in accordance with international standards.

3 (2) The Department of Transportation shall establish a pilot program for assessing how products
 4 that the department or a contractor for the department procures in connection with a public im-
 5 provement contract affect levels of carbon dioxide in the atmosphere. The pilot program must:

6 (a) Require a prospective contractor to respond to an invitation to bid for a public improvement
 7 contract with a disclosure of the environmental product cost of all concrete, *[and]* asphalt **and steel**
 8 the prospective contractor expects to manufacture or purchase in the course of constructing, re-
 9 constructing or renovating the public improvement.

10 (b) Require the department to determine the lowest responsible bidder for a public improvement
 11 contract after adding the environmental product cost of concrete, *[and]* asphalt **and steel** to each
 12 prospective contractor’s bid, if the public improvement will use concrete, *[and]* asphalt **and steel**.

13 (3) Every public improvement contract that the Department of Transportation awards under the
 14 pilot program must require contractors to determine the lowest responsible bidder for subcontracts
 15 after adding the environmental product cost of concrete, *[and]* asphalt **and steel** to each prospective
 16 subcontractor’s bid, if the work the subcontractor will perform uses concrete, *[and]* asphalt **and**
 17 **steel**.

18 (4) A local contracting agency may choose to adopt the requirements set forth in subsections (2)
 19 and (3) of this section in awarding a public improvement contract.

20 (5) The Department of Environmental Quality shall adopt and keep updated rules for calculating
 21 the environmental product cost of products the Department of Transportation or a contractor pro-
 22 cures under the pilot program described in this section. The calculation must assess the environ-
 23 mental product cost as a dollar cost per metric ton of carbon emissions for the product, based on
 24 information in a environmental product declaration.

25 **SECTION 4.** Section 1 of this 2017 Act, as amended by sections 2 and 3 of this 2107 Act, is
 26 amended to read:

27 (1) As used in this section:

28 (a) “Environmental product cost” means the cost, denominated in dollars, of a product’s life cy-
 29 cle environmental impact, calculated in accordance with rules the Department of Environmental
 30 Quality adopts under subsection (5) of this section.

31 (b) “Environmental product declaration” means a product-specific measurement of the life cycle
 32 environmental impact of a product, from the point of raw material extraction to the point of manu-
 33 facture, that is certified by a third party and in accordance with international standards.

34 (2) *[The Department of Transportation shall establish a pilot program for assessing]* **A state**
 35 **contracting agency shall assess** how products that the *[department or a contractor for the depart-*
 36 *ment]* **state contracting agency or a contractor for the state contracting agency** procures in
 37 connection with a public improvement contract affect levels of carbon dioxide in the atmosphere.
 38 The *[pilot program]* **state contracting agency’s assessment** must:

39 (a) Require a prospective contractor to respond to an invitation to bid for a public improvement
 40 contract with a disclosure of the environmental product cost of all concrete, asphalt and steel the
 41 prospective contractor expects to manufacture or purchase in the course of constructing, recon-
 42 structing or renovating the public improvement.

43 (b) Require the *[department]* **state contracting agency** to determine the lowest responsible
 44 bidder for a public improvement contract after adding the environmental product cost of concrete,
 45 asphalt and steel to each prospective contractor’s bid, if the public improvement will use concrete,

1 asphalt and steel.

2 (3) Every public improvement contract that [*the Department of Transportation awards under the*
3 *pilot program*] **a state contracting agency awards** must require contractors to determine the low-
4 est responsible bidder for subcontracts after adding the environmental product cost of concrete, as-
5 phalt and steel to each prospective subcontractor's bid, if the work the subcontractor will perform
6 uses concrete, asphalt and steel.

7 (4) A local contracting agency may choose to adopt the requirements set forth in subsections (2)
8 and (3) of this section in awarding a public improvement contract.

9 (5) The Department of Environmental Quality shall adopt and keep updated rules for calculating
10 the environmental product cost of products [*the Department of Transportation or a contractor pro-*
11 *cures under the pilot program described in*] **a state contracting agency or a contractor procures**
12 **in accordance with** this section. The calculation must assess the environmental product cost as
13 a dollar cost per metric ton of carbon emissions for the product, based on information in a envi-
14 ronmental product declaration.

15 **SECTION 5. (1) Section 1 of this 2017 Act becomes operative on January 1, 2018.**

16 **(2) The amendments to section 1 of this 2017 Act by section 2 of this 2017 Act become**
17 **operative on January 1, 2019.**

18 **(3) The amendments to section 1 of this 2017 Act by section 3 of this 2017 Act become**
19 **operative on January 1, 2020.**

20 **(4) The amendments to section 1 of this 2017 Act by section 4 of this 2017 Act become**
21 **operative on January 1, 2021.**

22 **(5) The Department of Transportation and the Department of Environmental Quality may**
23 **adopt rules and take any other action before the operative date specified in subsection (1)**
24 **of this section that is necessary to enable the departments, on and after the operative date**
25 **specified in subsection (1) of this section, to exercise all of the duties, functions and powers**
26 **conferred on the departments by section 1 of this 2017 Act.**

27 **SECTION 6. This 2017 Act being necessary for the immediate preservation of the public**
28 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
29 **on its passage.**

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