

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1369

Introduced by Assembly Member Bonta

February 19, 2021

~~An act to amend Section 10141 of the Public Contract Code, relating to public contracts.~~ *An act to amend Sections 3501 and 3502 of the Public Contract Code, relating to public contracts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1369, as amended, Bonta. ~~State Contract Act: notice.~~ *Buy Clean California Act: eligible materials: product-specific global warming potential emissions.*

Existing law, the Buy Clean California Act, requires the Department of General Services, by January 1, 2021, to establish and publish in the State Contracting Manual, in a department management memorandum, or on the department's internet website, a maximum acceptable global warming potential for each category of eligible materials, set at the industry average of facility-specific global warming potential emissions for that material, expressed as specified. Existing law defines eligible materials for those purposes to mean carbon steel rebar, flat glass, mineral wool board insulation, or structural steel.

This bill would define eligible materials to additionally include gypsum board, insulation, carpet and carpet tiles, ceiling tiles, and any other major structural, high-impact architectural, civil, or high-impact materials for which there is either a product category rule or an environmental product declaration. The bill would also require the department, by January 1, 2023, to establish and publish a maximum acceptable global warming potential for each category of eligible

materials, set at the industry average of product-specific global warming potential emissions for that material, expressed as specified.

Existing law requires the department, by January 1, 2024, and every 3 years thereafter, to review the maximum acceptable global warming potential for each category of eligible materials and authorizes the department to adjust that number downward for any eligible material to reflect industry improvements under specified circumstances.

This bill, instead, would require the department, by January 1, 2026, and every 3 years thereafter, to review the maximum acceptable global warming potential for each category of eligible materials, expressed as specified, and would authorize the department to adjust that number downward for any eligible material to reflect industry improvements under specified circumstances.

~~Existing law, the State Contract Act, requires that public notice of a project be given by publication once a week for at least 2 consecutive weeks or once a week for more than 2 consecutive weeks if the longer period of advertising is deemed necessary by the department with jurisdiction over the project. Existing law requires that the notice state the time and place for the receiving and opening of sealed bids, describing in general terms the work to be done, and that bids will be required for the entire project and for the performance of separate designated parts of the entire project, when the department determines that segregation of the work is advisable.~~

~~This bill would make nonsubstantive changes to the notice provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3501 of the Public Contract Code is
- 2 amended to read:
- 3 3501. For purposes of this section:
- 4 (a) “Awarding authority” means any of the following:
- 5 (1) A state agency for a contract for a public works project that
- 6 is subject to the State Contract Act (Chapter 1 (commencing with
- 7 Section 10100) of Part 2).
- 8 (2) The Regents of the University of California for a contract
- 9 for a public works project that is subject to Chapter 2.1
- 10 (commencing with Section 10500) of Part 2.

1 (3) The Trustees of the California State University for a contract
2 for a public works project that is subject to the California State
3 University Contract Law (Chapter 2.5 (commencing with Section
4 10700) of Part 2).

5 (b) “Department” means the Department of General Services.

6 (c) “Eligible materials” means any of the following:

7 (1) Carbon steel rebar.

8 (2) Flat glass.

9 (3) Mineral wool board insulation.

10 (4) Structural steel.

11 (5) *Gypsum board*.

12 (6) *Insulation*.

13 (7) *Carpet and carpet tiles*.

14 (8) *Ceiling tiles*.

15 (9) *Any other major structural, high-impact architectural, civil,*
16 *or high-impact materials for which there is either a product*
17 *category rule or an environmental product declaration.*

18 (d) “Eligible project” means a project that the awarding authority
19 determines will require eligible materials.

20 (e) “Greenhouse gas emissions” has the same meaning as
21 defined in subdivision (g) of Section 38505 of the Health and
22 Safety Code.

23 *SEC. 2. Section 3502 of the Public Contract Code is amended*
24 *to read:*

25 3502. (a) By January 1, 2021, the department shall establish,
26 and publish in the State Contracting Manual or a department
27 management memorandum, or make available on the department’s
28 internet website, a maximum acceptable global warming potential
29 for each category of eligible materials in accordance with both of
30 the following requirements:

31 (1) The department shall set the maximum acceptable global
32 warming potential at the industry average of facility-specific global
33 warming potential emissions for that material with a phase-in
34 period of not more than two years. The department shall determine
35 the industry average by consulting recognized databases of
36 environmental product declarations. When determining the industry
37 averages pursuant to this paragraph, the department should include
38 all stages of manufacturing required by the relevant product
39 category rule. However, when setting the initial industry average,
40 the department may exclude emissions that occur during fabrication

1 stages, and make reasonable judgments aligned with the product
2 category rule.

3 (2) The department shall express the maximum acceptable global
4 warming potential as a number that states the maximum acceptable
5 facility-specific global warming potential for each category of
6 eligible materials. The department may set different maximums
7 for different products within each category and, when more than
8 one set of product category rules exists for a category or set of
9 products, may set a different maximum for each set of product
10 category rules. The global warming potential shall be provided in
11 a manner that is consistent with criteria in an Environmental
12 Product Declaration.

13 (b) The department, by January 1, 2021, shall submit a report
14 to the Legislature that describes the method that the department
15 used to develop the maximum global warming potential for each
16 category of eligible materials pursuant to subdivision (a). The
17 report required by this subdivision shall be submitted in compliance
18 with Section 9795 of the Government Code.

19 (c) *By January 1, 2023, the department shall establish, and*
20 *publish in the State Contracting Manual or a department*
21 *management memorandum, or make available on the department's*
22 *internet website, a maximum acceptable global warming potential*
23 *for each category of eligible materials in accordance with both of*
24 *the following requirements:*

25 (1) *The department shall set the maximum acceptable global*
26 *warming potential at the industry average of product-specific*
27 *global warming potential emissions for that material with a*
28 *phase-in period of not more than two years. The department shall*
29 *determine the industry average by consulting recognized databases*
30 *of environmental product declarations. When determining the*
31 *industry averages pursuant to this paragraph, the department*
32 *should include all stages of manufacturing required by the relevant*
33 *product category rule. However, when setting the initial industry*
34 *average, the department may exclude emissions that occur during*
35 *fabrication stages, and make reasonable judgments aligned with*
36 *the product category rule.*

37 (2) *The department shall express the maximum acceptable global*
38 *warming potential as a number that states the maximum acceptable*
39 *product-specific global warming potential for each category of*
40 *eligible materials. The department may set different maximums*

1 *for different products within each category and, when more than*
2 *one set of product category rules exists for a category or set of*
3 *products, may set a different maximum for each set of product*
4 *category rules. The global warming potential shall be provided*
5 *in a manner that is consistent with criteria in an Environmental*
6 *Product Declaration.*

7 (e)

8 (d) By January 1, ~~2024~~, 2026, and every three years thereafter,
9 the department shall review the maximum acceptable global
10 warming potential for each category of eligible materials
11 established pursuant to subdivision-(a), (c), and may adjust that
12 number downward for any eligible material to reflect industry
13 improvements if the department, based on the process described
14 in paragraph (1) of subdivision-(a), (c), determines that the industry
15 average has changed, but the department shall not adjust that
16 number upward for any eligible material. At that time, the
17 department shall update the State Contracting Manual, department
18 management memorandum, or information available on the
19 department’s internet website, to reflect that adjustment.

20 ~~SECTION 1. Section 10141 of the Public Contract Code is~~
21 ~~amended to read:~~

22 ~~10141. The notice shall state the time and place for the~~
23 ~~receiving and opening of sealed bids, describing in general terms~~
24 ~~the work to be done, and that the bids will be required for the entire~~
25 ~~project and for the performance of separate designated parts of the~~
26 ~~entire project, if the department determines that segregation is~~
27 ~~advisable.~~