

AMENDED IN ASSEMBLY MAY 30, 2017
AMENDED IN ASSEMBLY MAY 10, 2017
AMENDED IN ASSEMBLY MARCH 27, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 262

**Introduced by Assembly Members Bonta and Eggman
(Coauthors: Assembly Members Chiu and Steinorth)**

January 31, 2017

An act to amend and renumber the heading of Article 5 (commencing with Section 3400) of Chapter 3 of Part 1 of Division 2 of, and to add Article 5 (commencing with Section 3500) to Chapter 3 of Part 1 of Division 2 of, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 262, as amended, Bonta. Public contracts: bid specifications: Buy Clean California Act.

The State Contract Act governs the bidding and award of public works contracts by specific state departments and requires an awarding department, before entering into any contract for a project, to prepare full, complete, and accurate plans and specifications and estimates of cost.

Other existing law establishes specific requirements for competitive bidding for building and improvement projects by the Regents of the University of California, including requiring the regents to prepare plans and specifications before entering into a contract for a project.

The California State University Contract Law governs contracting for building and improvement projects by the California State University and imposes specific competitive bidding requirements for the Trustees of the California State University, including requiring the trustees to prepare full, complete, and accurate plans and specifications for a project.

This bill, the Buy Clean California Act, would, by January 1, 2019, require the Department of General Services to establish, and publish in the State Contracting Manual, a maximum acceptable global warming potential for each category of eligible materials, in accordance with requirements set out in the bill. The bill, by January 1, 2022, and every 3 years thereafter, would require the department to review the maximum acceptable global warming potential for each category of eligible materials established, and would authorize the department to adjust that number downward for any eligible material to reflect industry improvements, as provided.

The bill, for specified types of contracts entered into on or after January 1, 2019, would require an awarding authority to require a successful bidder to submit a current Environmental Product Declaration, developed in accordance with specified standards, for that type of product. The bill would require an awarding authority to include in a specification for a bid for an eligible project, as defined, that the facility-specific global warming potential for any eligible materials does not exceed the maximum global warming potential for that material

determined by the department in accordance with the process described above. The bill would also authorize an awarding authority to include in a specification for bids for an eligible project a facility-specific global warming potential for any eligible material that is lower than the maximum global warming potential for that material as determined by the department in accordance with the process described above. The bill would require an awarding authority, in carrying out its duties under the act, to strive to continuously reduce emissions over time. The bill would define “awarding authority” for these purposes to include state departments and entities subject to the State Contract Act, the Regents of the University of California, and the Trustees of the California State University.

The bill, by January 1, 2022, would require the department to submit a report to the Legislature on any obstacles to the implementation of this article, and the effectiveness of this article in reducing global warming potential.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all the following:

- (a) Climate change will have devastating global impacts.
- (b) All scientific evidence points to the need for California and the world to reduce greenhouse gas emissions to avert the worst effects of climate change. Climate change impacts are already apparent in California, where scientists have determined that annual temperature increases and a long-term drought are consequences of human-induced climate change.
- (c) The Legislature 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) Executive Order B-30-15 issued by Governor Edmund G. Brown, Jr. stipulates that “State agencies shall take climate change into account in their planning and investment decisions and employ full life-cycle cost accounting to evaluate and compare infrastructure investments and alternatives.” Full life cycle cost accounting in this instance also refers to accounting for the impacts across the life cycle of a product, or life cycle assessment.
- (e) Great quantities of emissions are released during the manufacture and transport of products used in public infrastructure projects.
- (f) California, 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.

(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 California bidding process.

SEC. 2. The heading of Article 5 (commencing with Section 3400) of Chapter 3 of Part 1 of Division 2 of the Public Contract Code is amended and renumbered to read:

Article 4. Preference for Materials

SEC. 3. Article 5 (commencing with Section 3500) is added to Chapter 3 of Part 1 of Division 2 of the Public Contract Code, to read:

Article 5. Buy Clean California Act

3500. This article shall be known, and may be cited, as the Buy Clean California Act.

3501. For purposes of this section:

(a) “Awarding authority” means any of the following:

(1) A state agency for a contract for a public works project that is subject to the State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2 of Division 2).

(2) The Regents of the University of California for a contract for a public works project that is subject to Chapter 2.1 (commencing with Section 10500) of Part 2 of Division 2.

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

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

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

(1) Brass pipe and pipe fittings.

(2) Carbon steel rebar.

~~(3) Concrete.~~

~~(4)~~

(3) Flat glass.

~~(5)~~

(4) Iron pipe and pipe fittings.

~~(6)~~

(5) Mineral wool insulation.

~~(7)~~

(6) Steel line pipe.

~~(8)~~

(7) Structural steel.

~~(9)~~

(8) Structural steel pipe.

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

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

3502. (a) By January 1, 2019, the department shall establish, and publish in the State Contracting Manual, a maximum acceptable global warming potential for each category of eligible materials in accordance with both of the following requirements:

(1) The department shall set the maximum acceptable global warming potential at the industry average of 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.

(2) 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) The department, by January 1, 2019, shall submit a report to the Legislature that describes the method that the department used to develop the maximum global warming potential for each category of eligible materials pursuant to subdivision (a). The report required by this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(c) By January 1, 2022, and every three years thereafter, the department shall review the maximum acceptable global warming potential for each category of eligible materials established pursuant to subdivision (a), and may adjust that number downward for any eligible material to reflect industry improvements if the department, based on the process described in paragraph (1) of subdivision (a), determines that the industry average has changed, but the department shall not adjust that number upward for any eligible material. At that time, the department shall update the State Contracting Manual to reflect that adjustment.

3503. (a) An awarding authority shall require the successful bidder for a contract described in subdivision (b) to submit a current facility-specific Environmental Product Declaration, Type III, as defined by the International Organization for Standardization (ISO) standard 14025, or similarly robust life cycle assessment methods that have uniform standards in data collection consistent with ISO standard 14025, industry acceptance, and integrity, for each eligible material proposed to be used.

(b) An awarding authority shall include in a specification for bids for an eligible project that the facility-specific global warming potential for any eligible material does not exceed the maximum acceptable global warming potential for that material determined pursuant to Section 3502. An awarding authority may include in a specification for bids for an eligible project a facility-specific global warming potential for any eligible material that is lower than the maximum acceptable global warming potential for that material determined pursuant to Section 3502.

(c) This section shall only apply to a contract entered into on or after January 1, 2019.

3504. In carrying out its duties under this article, an awarding authority shall strive to achieve a continuous reduction of emissions over time.

3505. The department, by January 1, 2022, shall submit a report to the Legislature on any obstacles to the implementation of this article, and the effectiveness of this article to reduce global warming potential. The report required by this section shall be submitted in compliance with Section 9795 of the Government Code.