

Requested by Representative RAYFIELD

**PROPOSED AMENDMENTS TO
HOUSE BILL 4139**

1 On page 1 of the printed bill, delete lines 5 through 25 and delete pages
2 2 through 5 and insert:

3 **“SECTION 1. (1) As used in this section and sections 2 and 3 of this**
4 **2022 Act:**

5 **“(a) ‘Bidder’ has the meaning given that term in ORS 279A.010.**

6 **“(b) ‘Covered materials’ means:**

7 **“(A) Concrete, including ready mix concrete, shotcrete, precast**
8 **concrete and concrete masonry units;**

9 **“(B) Asphalt paving mixtures;**

10 **“(C) Steel, including rebar, reinforcing steel and structural steel,**
11 **hot-rolled sections, hollow sections, plate steel and cold-formed steel;**
12 **and**

13 **“(D) Other materials the Department of Transportation designates**
14 **by rule after consultation with the technical advisory committee.**

15 **“(c) ‘Emergency’ has the meaning given that term in ORS 279A.010.**

16 **“(d) ‘Environmental product declaration’ means a product-specific**
17 **label developed in accordance with rules the department adopts that**
18 **are based on ISO Standard 14025 and on independently verified life**
19 **cycle assessment data, life cycle inventory and analysis data or infor-**
20 **mation modules in accordance with the ISO 14040 series of standards.**

21 **“(e) ‘Procurement’ has the meaning given that term in ORS**

1 **279A.010.**

2 **“(f) ‘Proposer’ has the meaning given that term in ORS 279A.010.**

3 **“(g) ‘Public contract’ has the meaning given that term in ORS**
4 **279A.010.**

5 **“(h) ‘Public Contracting Code’ has the meaning given that term in**
6 **ORS 279A.010.**

7 **“(i) ‘Technical advisory committee’ means the committee described**
8 **in section 2 of this 2022 Act.**

9 **“(2)(a) The department, not later than December 31, 2025, shall es-**
10 **tablish a program for greenhouse gas reduction that:**

11 **“(A) Assesses the greenhouse gas emissions attributable to covered**
12 **materials the department uses in the department’s construction and**
13 **maintenance activities for the state’s transportation system;**

14 **“(B) Conducts life cycle assessments of a selected set of the**
15 **department’s construction and maintenance activities; and**

16 **“(C) Devises strategies for reducing greenhouse gas emissions that**
17 **include, but are not limited to, improving pavement and bridge con-**
18 **ditions.**

19 **“(b) In establishing the program described in paragraph (a) of this**
20 **subsection, the department shall identify and disclose in any reports**
21 **the department produces all relevant measurement difficulties, defi-**
22 **ciencies in needed data, assumptions, uncertainties, technological**
23 **limitations, costs associated with assessment and implementation and**
24 **any other relevant limitations of methodology, practice or implemen-**
25 **tation.**

26 **“(c) In devising the strategies described in paragraph (a)(C) of this**
27 **subsection, the department, at a minimum, shall consider and evalu-**
28 **ate:**

29 **“(A) Advancements in materials and engineering as applied to**
30 **greenhouse gas emission reduction;**

1 **“(B) Regional variability in the quality and durability of aggregates**
2 **and other components of covered materials;**

3 **“(C) The types and effects of fuels available for use in manufac-**
4 **turing, transporting and using covered materials;**

5 **“(D) The quality and performance of the covered materials; and**

6 **“(E) Any other factors that the department, in consultation with**
7 **the technical advisory committee, deems relevant and useful.**

8 **“(d) The department shall conduct the assessments and devise the**
9 **strategies described in paragraph (a) of this subsection separately for**
10 **each of the state’s five transportation regions, accounting for differ-**
11 **ences among the regions with respect to the availability of covered**
12 **materials, fuel and other necessary resources and the quantity of**
13 **covered materials the department uses or plans to use.**

14 **“(3)(a) In procuring covered materials for the program described in**
15 **subsection (2)(a) of this section, the department shall require con-**
16 **tractors to submit environmental product declarations before the**
17 **contractor installs the covered materials, unless the department:**

18 **“(A) Procures the covered materials on an emergency basis;**

19 **“(B) Determines that a relevant product category rule does not ex-**
20 **ist;**

21 **“(C) Determines that requiring an environmental product declara-**
22 **tion will reduce competition for public contracts or otherwise**
23 **contravene the requirements of the Public Contracting Code;**

24 **“(D) Determines that requiring an environmental product declara-**
25 **tion would unreasonably affect the department’s specifications or re-**
26 **quirements for covered materials or impair the department’s**
27 **construction or maintenance activities;**

28 **“(E) Determines that an environmental product declaration is not**
29 **necessary to measure or quantify greenhouse gas emissions; or**

30 **“(F) Determines after consultation with the technical advisory**

1 committee that other considerations outweigh the need for requiring
2 environmental product declarations or that a construction or mainte-
3 nance activity would use less than a threshold amount of covered
4 materials. The department, in consultation with the technical advisory
5 committee, shall specify the threshold amount by rule.

6 “(b) Notwithstanding paragraph (a) of this subsection, in procuring
7 asphalt paving mixtures, the department may allow contractors to
8 submit environmental product declarations within a reasonable time
9 after executing a public contract for constructing roads or acquiring
10 materials or within the time required for an environmental product
11 declaration provider to prepare the environmental product declaration,
12 but not later than the date on which the contractor completes per-
13 formance of the public contract.

14 “(c) The department may not use an environmental product decla-
15 ration as a consideration in ranking or scoring a bid or proposal before
16 January 1, 2027, but thereafter may consider environmental product
17 declarations if the department determines that doing so is beneficial
18 and if, after consulting with the technical advisory committee, con-
19 struction contractors, material suppliers and other stakeholders, the
20 department devises a scoring methodology that ensures fairness
21 among bidders and proposers.

22 “(4)(a) In order to assist bidders or proposers to prepare or submit
23 environmental product declarations required under this section, the
24 department by rule shall establish a program to extend grants to bid-
25 ders or proposers that require financial assistance to prepare envi-
26 ronmental product declarations.

27 “(b) Before establishing a program under this subsection, the de-
28 partment shall submit a request for funding to the Legislative As-
29 sembly in an amount that the department estimates would be
30 necessary to provide the grants described in this subsection. The de-

1 department shall deposit any funding the department receives into a
2 designated account within the department's operating account and
3 shall keep records of disbursements from the account. Any moneys the
4 department does not award as grants must revert to the General Fund
5 upon the termination of the program.

6 “(c) The department by rule shall establish criteria for eligibility for
7 grants under this subsection and shall specify the maximum amount
8 of each grant on the basis of available funding.

9 **“SECTION 2. (1) The Department of Transportation shall establish**
10 **a technical advisory committee to assist the department with issues**
11 **related to implementing the program described in section 1 of this 2022**
12 **Act.**

13 **“(2) Members of the technical advisory committee must include, but**
14 **need not be limited to, representatives from the Department of**
15 **Transportation and the Department of Environmental Quality, from**
16 **construction firms engaged in transportation construction and main-**
17 **tenance, from suppliers of covered materials, from construction and**
18 **material supplier industry associations, from workers in construction**
19 **or manufacturing industries, from environmental organizations and**
20 **from institutions of higher education.**

21 **“(3) The technical advisory committee shall:**

22 **“(a) Recommend quantities of covered materials below which the**
23 **Department of Transportation need not require an environmental**
24 **product declaration.**

25 **“(b) Advise the department as needed to prepare the reports re-**
26 **quired under section 3 of this 2022 Act.**

27 **“(c) Advise and guide the department concerning:**

28 **“(A) The extent to which environmental product declarations are**
29 **available or are in development;**

30 **“(B) Which of the department's construction and maintenance ac-**

1 **tivities are appropriate for inclusion in the program described in sec-**
2 **tion 1 (2) of this 2022 Act;**

3 **“(C) The time within which a bidder or proposer must submit an**
4 **environmental product declaration and any related information;**

5 **“(D) How to properly analyze or interpret an environmental product**
6 **declaration;**

7 **“(E) The content of and criteria for devising, adopting and imple-**
8 **menting the strategies described in section 1 (2)(a)(C) of this 2022 Act;**

9 **“(F) Potential changes to the design or implementation of the pro-**
10 **gram described in section 1 of this 2022 Act in light of technological**
11 **advances and the need to maintain reasonable competition for public**
12 **contracts; and**

13 **“(G) Other matters the technical advisory committee deems neces-**
14 **sary to achieve the goals of the program.**

15 **“(4) The technical advisory committee may recommend to the de-**
16 **partment additional materials for designation as covered materials.**

17 **“(5) A majority of the members of the technical advisory committee**
18 **constitutes a quorum for the transaction of business.**

19 **“(6) The technical advisory committee shall elect two of the mem-**
20 **bers of the technical advisory committee to serve as cochairpersons.**

21 **“(7) The department shall appoint a replacement for any vacancy**
22 **on the technical advisory committee. The replacement must become**
23 **immediately effective upon appointment.**

24 **“(8) The technical advisory committee must meet at least four**
25 **times within each calendar year at times and places specified by the**
26 **call of the chairperson, of a majority of the members of the technical**
27 **advisory committee or of the Director of Transportation.**

28 **“(9) The department shall provide staff support to the technical**
29 **advisory committee.**

30 **“(10) Members of the technical advisory committee are not entitled**

1 to compensation or reimbursement for expenses and serve as volun-
2 teers on the technical advisory committee.

3 **“SECTION 3.** The Department of Transportation, after establishing
4 the program described in section 1 of this 2022 Act, shall report an-
5 nually not later than December 31 of each calendar year to the Oregon
6 Transportation Commission and an interim committee of the Legisla-
7 tive Assembly related to transportation concerning the progress of the
8 program and related matters. The department shall prepare the re-
9 ports in consultation with the technical advisory committee and the
10 reports, at a minimum, must include:

11 **“(1)** A description of the department’s efforts to design and imple-
12 ment the program, an evaluation of the department’s success in re-
13 ducing greenhouse gas emissions by means of environmental product
14 declarations and recommendations as to whether to continue or ex-
15 pand the program; and

16 **“(2)** Any other matters the department, in consultation with the
17 technical advisory committee, deems relevant, material or important
18 to highlight or recommend to the commission or the Legislative As-
19 sembly.

20 **“SECTION 4.** This 2022 Act takes effect on the 91st day after the
21 date on which the 2022 regular session of the Eighty-first Legislative
22 Assembly adjourns sine die.”.

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