By: Delegates Stein and Barve
Introduced and read first time: February 3, 2022
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 Building Standards and Emissions Reductions – High Performance, State, and
Local Government Buildings, State Operations, and Eligible Projects

4 FOR the purpose of altering the definition of “high performance building” to include certain
schools and public safety buildings and require that the buildings meet certain
building standards; requiring the Department of General Services to establish a
maximum acceptable global warming potential for certain categories of eligible
materials used in certain eligible projects; requiring a unit of State government to
specify the eligible materials that will be used in an eligible project in the solicitation
for an eligible project; requiring a successful bidder or offeror of an eligible project to
submit certain information about each eligible material proposed to be used in an
eligible project; prohibiting a contractor from installing any eligible materials on an
eligible project until the contractor submits the required information for the eligible
material; requiring that certain State and local government buildings be in
compliance with a certain all–electric construction code and building emissions
standard; requiring certain State and local government buildings to achieve a certain
greenhouse gas direct emissions reduction and net–zero greenhouse gas direct
emissions from buildings on or before certain dates; requiring the Department to
develop and make available to the public an interagency climate action plan for
achieving certain emissions reductions from all State operations; and generally
relating to building standards and greenhouse gas emissions reductions in the State.

22 BY repealing and reenacting, with amendments,
23 Article – State Finance and Procurement
24 Section 3–602.1(a)
25 Annotated Code of Maryland
26 (2021 Replacement Volume)

27 BY adding to
28 Article – State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Section 3–602.3; and 4–901 through 4–905 to be under the new subtitle “Subtitle 9. Buy Clean Maryland Act”

Annotated Code of Maryland (2021 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

3–602.1.

(a) (1) In this section the following words have the meanings indicated.

(2) “High performance building” means a building that:

(i) 1. A. [meets or exceeds the current] ACHIEVES AT LEAST A SILVER RATING ACCORDING TO THE MOST RECENT version of the U.S. Green Building Council’s LEED (Leadership in Energy and Environmental Design) Green Building Rating System [Silver rating]; OR

B. IS A SCHOOL OR PUBLIC SAFETY BUILDING THAT ACHIEVES AT LEAST A CERTIFIED RATING ACCORDING TO THE MOST RECENT VERSION OF THE U.S. GREEN BUILDING COUNCIL’S LEED GREEN BUILDING RATING SYSTEM AND, BASED ON THE BUILDING’S LOCATION, ACHIEVES 5 POINTS OR FEWER IN THE COMBINED CREDITS FOR ACCESS TO QUALITY TRANSIT AND SURROUNDING DENSITY AND DIVERSE USES;

[(iii)] 2. Achieves at least a comparable numeric rating according to a nationally recognized, accepted, and appropriate numeric sustainable development rating system, guideline, or standard approved by the Secretaries of Budget and Management and General Services; or

[(iii)] 3. Complies with a nationally recognized and accepted green building code, guideline, or standard reviewed and recommended by the Maryland Green Building Council and approved by the Secretaries of Budget and Management and General Services; AND

(II) 1. MEETS OR EXCEEDS THE CURRENT REQUIREMENTS FOR CERTIFICATION UNDER THE U.S. GREEN BUILDING COUNCIL’S LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN) ZERO ENERGY PROGRAM; OR

2. ACHIEVES A NET–ZERO ENERGY BALANCE IN ACCORDANCE WITH STANDARDS OR GUIDELINES RECOMMENDED BY THE
MARYLAND GREEN BUILDING COUNCIL AND APPROVED BY THE SECRETARY OF
BUDGET AND MANAGEMENT AND THE SECRETARY OF GENERAL SERVICES.

(3) “Major renovation” means the renovation of a building where:

(i) the building shell is to be reused for the new construction;

(ii) the heating, ventilating, and air conditioning (HVAC), electrical,
and plumbing systems are to be replaced; and

(iii) the scope of the renovation is 7,500 square feet or greater.

SUBTITLE 9. BUY CLEAN MARYLAND ACT.

4–901.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) “ELIGIBLE MATERIAL” MEANS ANY OF THE FOLLOWING MATERIALS
USED IN THE CONSTRUCTION OF A CAPITAL PROJECT:

(1) CEMENT AND CONCRETE MIXTURES;

(2) GLASS;

(3) POSTTENSION STEEL;

(4) REINFORCING STEEL;

(5) STRUCTURAL STEEL; AND

(6) WOOD STRUCTURAL ELEMENTS.

(C) (1) “ELIGIBLE PROJECT” MEANS A CAPITAL PROJECT UNDER § 3–602
OF THIS ARTICLE.

(2) “ELIGIBLE PROJECT” DOES NOT INCLUDE:

(I) ANY MAINTENANCE PROGRAM FOR THE UPKEEP OF A
CAPITAL PROJECT;

(II) ANY ROAD OR HIGHWAY PROJECT; OR
(III) A CAPITAL PROJECT AT A PUBLIC SCHOOL, AS DEFINED IN § 1–101 OF THE EDUCATION ARTICLE.

(D) “GLOBAL WARMING POTENTIAL” MEANS THE DEGREE THAT A GIVEN MASS OF A CHEMICAL CONTRIBUTES TO GLOBAL WARMING OVER A GIVEN TIME PERIOD WHEN COMPARED TO THE SAME MASS OF CARBON DIOXIDE.

(E) “GREENHOUSE GAS” HAS THE MEANING STATED IN § 2–1202 OF THE ENVIRONMENT ARTICLE.

4–902.

IN ADMINISTERING THIS SUBTITLE, THE DEPARTMENT SHALL STRIVE TO ACHIEVE A CONTINUOUS REDUCTION OF GREENHOUSE GAS EMISSIONS OVER TIME.

4–903.

(A) ON OR BEFORE JANUARY 1, 2024, THE DEPARTMENT SHALL ESTABLISH A MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS USED IN AN ELIGIBLE PROJECT IN ACCORDANCE WITH THIS SECTION.

(B) THE DEPARTMENT SHALL:

(1) BASE THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL ON THE INDUSTRY AVERAGE OF GLOBAL WARMING POTENTIAL EMISSIONS FOR THAT MATERIAL;

(2) DETERMINE THE INDUSTRY AVERAGE OF GLOBAL WARMING POTENTIAL EMISSIONS, WHICH MAY INCLUDE TRANSPORTATION–RELATED EMISSIONS, BY CONSULTING NATIONALLY OR INTERNATIONALLY RECOGNIZED DATABASES OF ENVIRONMENTAL PRODUCT DECLARATIONS; AND

(3) EXPRESS THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL AS A NUMBER THAT STATES THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS, CONSISTENT WITH CRITERIA IN AN ENVIRONMENTAL PRODUCT DECLARATION.

(C) THE DEPARTMENT MAY:

(1) ESTABLISH ADDITIONAL SUBCATEGORIES WITHIN EACH CATEGORY OF ELIGIBLE MATERIALS WITH DISTINCT MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL LIMITS;
(2) Establish a maximum acceptable global warming potential for each material category in the aggregate; and

(3) Consult with any other relevant unit of state government when establishing a maximum acceptable global warming potential for each category of eligible materials used in an eligible project.

(D) (1) Subject to paragraph (2) of this subsection, by January 1, 2027, and every 3 years thereafter, the department shall review the maximum acceptable global warming potential for each category of eligible materials and may adjust the potential for any category to reflect industry conditions.

(2) The department may not adjust the global warming potential upward for any category of eligible material.

Section 2. And be it further enacted, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

4–904.

(A) (1) For any solicitation for a contract for an eligible project, a unit of state government shall specify the eligible materials that will be used in the project and the reasonable minimum usage thresholds below which the requirements of this section do not apply.

(2) A unit of state government may include in a solicitation for an eligible project a global warming potential for any eligible material that is lower than the maximum acceptable global warming potential for that material as determined under § 4–903 of this subtitle.

(B) The department shall require a successful bidder or offeror of an eligible project to submit, for each eligible material proposed to be used in the eligible project:

(1) A current environmental product declaration, type III, as defined by the International Organization for Standardization standard 14025; or
(2) A SIMILARLY ROBUST LIFE CYCLE ASSESSMENT METHOD THAT INCLUDES UNIFORM STANDARDS IN DATA COLLECTION.

(C) A CONTRACTOR MAY NOT INSTALL ANY ELIGIBLE MATERIALS ON THE ELIGIBLE PROJECT UNTIL THE CONTRACTOR SUBmits A FACILITY–SPECIFIC ENVIRONMENTAL PRODUCT DECLARATION FOR THAT ELIGIBLE MATERIAL AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

(D) IF AN ENVIRONMENTAL PRODUCT DECLARATION IS NOT AVAILABLE FOR AN ELIGIBLE MATERIAL, THE CONTRACTOR SHALL NOTIFY THE UNIT AND USE AN ALTERNATIVE ELIGIBLE MATERIAL WITH AN ENVIRONMENTAL PRODUCT DECLARATION.

(E) THE DEPARTMENT MAY WAIVE THE REQUIREMENTS OF THIS SECTION IF IT DETERMINES THAT REQUIRING THE RELEVANT ELIGIBLE MATERIALS WOULD:

(1) BE TECHNICALLY INFEASIBLE;

(2) RESULT IN A SIGNIFICANT INCREASE IN PROJECT COST;

(3) RESULT IN A SIGNIFICANT DELAY IN PROJECT COMPLETION; OR

(4) RESULT IN ONLY ONE SOURCE OR MANUFACTURER BEING ABLE TO PROVIDE THE NECESSARY MATERIALS.

4–905.

(A) ON OR BEFORE DECEMBER 1, 2024, AND EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY THAT INCLUDES:

(1) WHAT THE DEPARTMENT HAS LEARNED ABOUT HOW TO IDENTIFY AND QUANTIFY EMBODIED CARBON IN BUILDING MATERIALS, INCLUDING LIFE CYCLE COSTS; AND

(2) ANY OBSTACLES THE DEPARTMENT, BIDDERS, OR OFFERORS HAVE ENCOUNTERED IN IDENTIFYING AND QUANTIFYING EMBODIED CARBON IN BUILDING MATERIALS.

(B) THE REPORT SUBMITTED ON OR BEFORE DECEMBER 1, 2024, SHALL INCLUDE A DESCRIPTION OF THE METHOD THAT THE DEPARTMENT USED TO
DEVELOP THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

3–602.3.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “COVERED BUILDING” MEANS:

1. A STATE BUILDING; AND

2. A LOCAL GOVERNMENT BUILDING FOR WHICH AT LEAST 50% OF THE CONSTRUCTION COSTS ARE PROVIDED BY THE STATE.

(II) “COVERED BUILDING” DOES NOT INCLUDE A SCHOOL.

(3) “SCOPE 1 EMISSIONS” MEANS DIRECT GREENHOUSE GAS EMISSIONS FROM SOURCES CONTROLLED OR OWNED BY AN ENTITY.

(4) “SCOPE 2 EMISSIONS” MEANS INDIRECT GREENHOUSE GAS EMISSIONS ASSOCIATED WITH THE PURCHASE OF ELECTRICITY, STEAM, HEAT, OR COOLING.

(B) ALL NEW CONSTRUCTION OF COVERED BUILDINGS SHALL COMPLY WITH AN ALL–ELECTRIC CONSTRUCTION CODE FOR NEW RESIDENTIAL AND COMMERCIAL BUILDINGS ESTABLISHED BY THE DEPARTMENT OF LABOR’S BUILDING CODES ADMINISTRATION.

(C) EACH COVERED BUILDING WITH A GROSS FLOOR AREA OF 25,000 SQUARE FEET OR MORE, INCLUDING BOTH EXISTING BUILDINGS AND NEW CONSTRUCTION, SHALL:

(1) BEGINNING JANUARY 1, 2025, BE IN COMPLIANCE WITH A BUILDING EMISSIONS STANDARD ESTABLISHED BY THE DEPARTMENT OF THE ENVIRONMENT;

(2) ON OR BEFORE JANUARY 1, 2030, ACHIEVE A 50% REDUCTION IN NET GREENHOUSE GAS DIRECT EMISSIONS FROM BUILDINGS FROM:
(I) 2025 Levels; or

(II) An alternative baseline of not earlier than 2020 if authorized under the building emissions standard established by the Department of the Environment; and

(3) On or before January 1, 2035, achieve net-zero greenhouse gas direct emissions from buildings.

(D) (1) Beginning in 2023, on or before January 1 each year, the Department of General Services shall report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the status of greenhouse gas emissions for all State operations, including the University System of Maryland.

(2) On or before January 1, 2025, the Department of General Services shall develop and make available to the public an interagency climate action plan for achieving net-zero Scope 1 and Scope 2 emissions from all State operations, including State-funded operations and the University System of Maryland.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1, 2022, the Maryland Green Building Council shall:

(1) seek input from community and industry stakeholders on recommendations to implement the provisions of Sections 1 and 2 of this Act, including:

   (i) architects;
   
   (ii) civil engineers;
   
   (iii) environmental scientists;
   
   (iv) institutions of higher education in the State;
   
   (v) materials manufacturers; and
   
   (vi) State contractors; and

(2) report the recommendations to the General Assembly, in accordance with § 2–1257 of the State Government Article.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2024.
SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take
effect October 1, 2022, contingent on the taking effect of Chapter ____ (S.B. ____/H.B. ____)(2lr1975) of the Acts of the General Assembly of 2022, and if Chapter ____ (S.B. ____/H.B. ____)(2lr1975) does not become effective, Section 3 of this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in Sections 5 and 6 of this Act, this Act shall take effect July 1, 2022.