

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5854

Chapter 423, Laws of 2009

61st Legislature
2009 Regular Session

CLIMATE POLLUTION REDUCTION--ENERGY EFFICIENCY

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 20, 2009
YEAS 27 NAYS 18

BRAD OWEN

President of the Senate

Passed by the House April 14, 2009
YEAS 67 NAYS 30

FRANK CHOPP

Speaker of the House of Representatives

Approved May 8, 2009, 11:04 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5854** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 11, 2009

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5854

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington **61st Legislature** **2009 Regular Session**

By Senate Ways & Means (originally sponsored by Senators Kilmer, Pridemore, Ranker, Rockefeller, Marr, Fraser, Kohl-Welles, Kline, Murray, and Keiser)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to reducing climate pollution in the built
2 environment; amending RCW 19.27A.020; adding new sections to chapter
3 19.27A RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that energy efficiency
6 is the cheapest, quickest, and cleanest way to meet rising energy
7 needs, confront climate change, and boost our economy. More than
8 thirty percent of Washington's greenhouse gas emissions come from
9 energy use in buildings. Making homes, businesses, and public
10 institutions more energy efficient will save money, create good local
11 jobs, enhance energy security, reduce pollution that causes global
12 warming, and speed economic recovery while reducing the need to invest
13 in costly new generation. Washington can spur its economy and assert
14 its regional and national clean energy leadership by putting efficiency
15 first. Washington can accomplish this by: Promoting super efficient,
16 low-energy use building codes; requiring disclosure of buildings'
17 energy use to prospective buyers; making public buildings models of
18 energy efficiency; financing energy saving upgrades to existing
19 buildings; and reducing utility bills for low-income households.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply to
2 sections 1 through 3 and 5 through 8 of this act and RCW 19.27A.020
3 unless the context clearly requires otherwise.

4 (1) "Benchmark" means the energy used by a facility as recorded
5 monthly for at least one year and the facility characteristics
6 information inputs required for a portfolio manager.

7 (2) "Conditioned space" means conditioned space, as defined in the
8 Washington state energy code.

9 (3) "Consumer-owned utility" includes a municipal electric utility
10 formed under Title 35 RCW, a public utility district formed under Title
11 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
12 cooperative formed under chapter 23.86 RCW, a mutual corporation or
13 association formed under chapter 24.06 RCW, a port district formed
14 under Title 53 RCW, or a water-sewer district formed under Title 57
15 RCW, that is engaged in the business of distributing electricity to one
16 or more retail electric customers in the state.

17 (4) "Cost-effectiveness" means that a project or resource is
18 forecast:

19 (a) To be reliable and available within the time it is needed; and

20 (b) To meet or reduce the power demand of the intended consumers at
21 an estimated incremental system cost no greater than that of the least-
22 cost similarly reliable and available alternative project or resource,
23 or any combination thereof.

24 (5) "Council" means the state building code council.

25 (6) "Department" means the department of community, trade, and
26 economic development.

27 (7) "Embodied energy" means the total amount of fossil fuel energy
28 consumed to extract raw materials and to manufacture, assemble,
29 transport, and install the materials in a building and the life-cycle
30 cost benefits including the recyclability and energy efficiencies with
31 respect to building materials, taking into account the total sum of
32 current values for the costs of investment, capital, installation,
33 operating, maintenance, and replacement as estimated for the lifetime
34 of the product or project.

35 (8) "Energy consumption data" means the monthly amount of energy
36 consumed by a customer as recorded by the applicable energy meter for
37 the most recent twelve-month period.

- 1 (9) "Energy service company" has the same meaning as in RCW
2 43.19.670.
- 3 (10) "General administration" means the department of general
4 administration.
- 5 (11) "Greenhouse gas" and "greenhouse gases" includes carbon
6 dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,
7 and sulfur hexafluoride.
- 8 (12) "Investment grade energy audit" means an intensive engineering
9 analysis of energy efficiency and management measures for the facility,
10 net energy savings, and a cost-effectiveness determination.
- 11 (13) "Investor-owned utility" means a corporation owned by
12 investors that meets the definition of "corporation" as defined in RCW
13 80.04.010 and is engaged in distributing either electricity or natural
14 gas, or both, to more than one retail electric customer in the state.
- 15 (14) "Major facility" means any publicly owned or leased building,
16 or a group of such buildings at a single site, having ten thousand
17 square feet or more of conditioned floor space.
- 18 (15) "National energy performance rating" means the score provided
19 by the energy star program, to indicate the energy efficiency
20 performance of the building compared to similar buildings in that
21 climate as defined in the United States environmental protection agency
22 "ENERGY STAR® Performance Ratings Technical Methodology."
- 23 (16) "Net zero energy use" means a building with net energy
24 consumption of zero over a typical year.
- 25 (17) "Portfolio manager" means the United States environmental
26 protection agency's energy star portfolio manager or an equivalent tool
27 adopted by the department.
- 28 (18) "Preliminary energy audit" means a quick evaluation by an
29 energy service company of the energy savings potential of a building.
- 30 (19) "Qualifying public agency" includes all state agencies,
31 colleges, and universities.
- 32 (20) "Qualifying utility" means a consumer-owned or investor-owned
33 gas or electric utility that serves more than twenty-five thousand
34 customers in the state of Washington.
- 35 (21) "Reporting public facility" means any of the following:
36 (a) A building or structure, or a group of buildings or structures
37 at a single site, owned by a qualifying public agency, that exceed ten
38 thousand square feet of conditioned space;

1 (b) Buildings, structures, or spaces leased by a qualifying public
2 agency that exceeds ten thousand square feet of conditioned space,
3 where the qualifying public agency purchases energy directly from the
4 investor-owned or consumer-owned utility;

5 (c) A wastewater treatment facility owned by a qualifying public
6 agency; or

7 (d) Other facilities selected by the qualifying public agency.

8 (22) "State portfolio manager master account" means a portfolio
9 manager account established to provide a single shared portfolio that
10 includes reports for all the reporting public facilities.

11 NEW SECTION. **Sec. 3.** (1) To the extent that funding is
12 appropriated specifically for the purposes of this section, the
13 department shall develop and implement a strategic plan for enhancing
14 energy efficiency in and reducing greenhouse gas emissions from homes,
15 buildings, districts, and neighborhoods. The strategic plan must be
16 used to help direct the future code increases in RCW 19.27A.020, with
17 targets for new buildings consistent with section 5 of this act. The
18 strategic plan will identify barriers to achieving net zero energy use
19 in homes and buildings and identify how to overcome these barriers in
20 future energy code updates and through complementary policies.

21 (2) The department must complete and release the strategic plan to
22 the legislature and the council by December 31, 2010, and update the
23 plan every three years.

24 (3) The strategic plan must include recommendations to the council
25 on energy code upgrades. At a minimum, the strategic plan must:

26 (a) Consider development of aspirational codes separate from the
27 state energy code that contain economically and technically feasible
28 optional standards that could achieve higher energy efficiency for
29 those builders that elected to follow the aspirational codes in lieu of
30 or in addition to complying with the standards set forth in the state
31 energy code;

32 (b) Determine the appropriate methodology to measure achievement of
33 state energy code targets using the United States environmental
34 protection agency's target finder program or equivalent methodology;

35 (c) Address the need for enhanced code training and enforcement;

36 (d) Include state strategies to support research, demonstration,
37 and education programs designed to achieve a seventy percent reduction

1 in annual net energy consumption as specified in section 5 of this act
2 and enhance energy efficiency and on-site renewable energy production
3 in buildings;

4 (e) Recommend incentives, education, training programs and
5 certifications, particularly state-approved training or certification
6 programs, joint apprenticeship programs, or labor-management
7 partnership programs that train workers for energy-efficiency projects
8 to ensure proposed programs are designed to increase building
9 professionals' ability to design, construct, and operate buildings that
10 will meet the seventy percent reduction in annual net energy
11 consumption as specified in section 5 of this act;

12 (f) Address barriers for utilities to serve net zero energy homes
13 and buildings and policies to overcome those barriers;

14 (g) Address the limits of a prescriptive code in achieving net zero
15 energy use homes and buildings and propose a transition to performance-
16 based codes;

17 (h) Identify financial mechanisms such as tax incentives, rebates,
18 and innovative financing to motivate energy consumers to take action to
19 increase energy efficiency and their use of on-site renewable energy.
20 Such incentives, rebates, or financing options may consider the role of
21 government programs as well as utility-sponsored programs;

22 (i) Address the adequacy of education and technical assistance,
23 including school curricula, technical training, and peer-to-peer
24 exchanges for professional and trade audiences;

25 (j) Develop strategies to develop and install district and
26 neighborhood-wide energy systems that help meet net zero energy use in
27 homes and buildings;

28 (k) Identify costs and benefits of energy efficiency measures on
29 residential and nonresidential construction; and

30 (l) Investigate methodologies and standards for the measurement of
31 the amount of embodied energy used in building materials.

32 (4) The department and the council shall convene a work group with
33 the affected parties to inform the initial development of the strategic
34 plan.

35 **Sec. 4.** RCW 19.27A.020 and 1998 c 245 s 8 are each amended to read
36 as follows:

1 (1) (~~No later than January 1, 1991,~~) The state building code
2 council shall adopt rules to be known as the Washington state energy
3 code as part of the state building code.

4 (2) The council shall follow the legislature's standards set forth
5 in this section to adopt rules to be known as the Washington state
6 energy code. The Washington state energy code shall be designed to:

7 (a) Construct increasingly energy efficient homes and buildings
8 that help achieve the broader goal of building zero fossil-fuel
9 greenhouse gas emission homes and buildings by the year 2031;

10 (b) Require new buildings to meet a certain level of energy
11 efficiency, but allow flexibility in building design, construction, and
12 heating equipment efficiencies within that framework(~~(. The Washington~~
13 state energy code shall be designed to)); and

14 (c) Allow space heating equipment efficiency to offset or
15 substitute for building envelope thermal performance.

16 (3) The Washington state energy code shall take into account
17 regional climatic conditions. Climate zone 1 shall include all
18 counties not included in climate zone 2. Climate zone 2 includes:
19 Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend
20 Oreille, Spokane, Stevens, and Whitman counties.

21 (4) The Washington state energy code for residential buildings
22 shall (~~require:~~

23 ~~(a) New residential buildings that are space heated with electric~~
24 ~~resistance heating systems to achieve energy use equivalent to that~~
25 ~~used in typical buildings constructed with:~~

26 ~~(i) Ceilings insulated to a level of R 38. The code shall contain~~
27 ~~an exception which permits single rafter or joist vaulted ceilings~~
28 ~~insulated to a level of R 30 (R value includes insulation only);~~

29 ~~(ii) In zone 1, walls insulated to a level of R 19 (R value~~
30 ~~includes insulation only), or constructed with two by four members,~~
31 ~~R 13 insulation batts, R 3.2 insulated sheathing, and other normal~~
32 ~~assembly components; in zone 2 walls insulated to a level of R 24 (R~~
33 ~~value includes insulation only), or constructed with two by six~~
34 ~~members, R 22 insulation batts, R 3.2 insulated sheathing, and other~~
35 ~~normal construction assembly components; for the purpose of determining~~
36 ~~equivalent thermal performance, the wall U value shall be 0.058 in zone~~
37 ~~1 and 0.044 in zone 2;~~

1 ~~(iii) Below grade walls, insulated on the interior side, to a level~~
2 ~~of R-19 or, if insulated on the exterior side, to a level of R-10 in~~
3 ~~zone 1 and R-12 in zone 2 (R value includes insulation only);~~
4 ~~(iv) Floors over unheated spaces insulated to a level of R-30 (R~~
5 ~~value includes insulation only);~~
6 ~~(v) Slab on grade floors insulated to a level of R-10 at the~~
7 ~~perimeter;~~
8 ~~(vi) Double glazed windows with values not more than U-0.4;~~
9 ~~(vii) In zone 1 the glazing area may be up to twenty one percent of~~
10 ~~floor area and in zone 2 the glazing area may be up to seventeen~~
11 ~~percent of floor area where consideration of the thermal resistance~~
12 ~~values for other building components and solar heat gains through the~~
13 ~~glazing result in thermal performance equivalent to that achieved with~~
14 ~~thermal resistance values for other components determined in accordance~~
15 ~~with the equivalent thermal performance criteria of (a) of this~~
16 ~~subsection and glazing area equal to fifteen percent of the floor area.~~
17 ~~Throughout the state for the purposes of determining equivalent thermal~~
18 ~~performance, the maximum glazing area shall be fifteen percent of the~~
19 ~~floor area; and~~
20 ~~(viii) Exterior doors insulated to a level of R-5; or an exterior~~
21 ~~wood door with a thermal resistance value of less than R-5 and values~~
22 ~~for other components determined in accordance with the equivalent~~
23 ~~thermal performance criteria of (a) of this subsection.~~
24 ~~(b) New residential buildings which are space heated with all other~~
25 ~~forms of space heating to achieve energy use equivalent to that used in~~
26 ~~typical buildings constructed with:~~
27 ~~(i) Ceilings insulated to a level of R-30 in zone 1 and R-38 in~~
28 ~~zone 2 the code shall contain an exception which permits single rafter~~
29 ~~or joist vaulted ceilings insulated to a level of R-30 (R value~~
30 ~~includes insulation only);~~
31 ~~(ii) Walls insulated to a level of R-19 (R value includes~~
32 ~~insulation only), or constructed with two by four members, R-13~~
33 ~~insulation batts, R-3.2 insulated sheathing, and other normal assembly~~
34 ~~components;~~
35 ~~(iii) Below grade walls, insulated on the interior side, to a level~~
36 ~~of R-19 or, if insulated on the exterior side, to a level of R-10 in~~
37 ~~zone 1 and R-12 in zone 2 (R value includes insulation only);~~

1 ~~(iv) Floors over unheated spaces insulated to a level of R-19 in~~
2 ~~zone 1 and R-30 in zone 2 (R value includes insulation only);~~

3 ~~(v) Slab on grade floors insulated to a level of R-10 at the~~
4 ~~perimeter;~~

5 ~~(vi) Heat pumps with a minimum heating season performance factor~~
6 ~~(HSPF) of 6.8 or with all other energy sources with a minimum annual~~
7 ~~fuel utilization efficiency (AFUE) of seventy eight percent;~~

8 ~~(vii) Double glazed windows with values not more than U-0.65 in~~
9 ~~zone 1 and U-0.60 in zone 2. The state building code council, in~~
10 ~~consultation with the department of community, trade, and economic~~
11 ~~development, shall review these U values, and, if economically~~
12 ~~justified for consumers, shall amend the Washington state energy code~~
13 ~~to improve the U values by December 1, 1993. The amendment shall not~~
14 ~~take effect until July 1, 1994; and~~

15 ~~(viii) In zone 1, the maximum glazing area shall be twenty one~~
16 ~~percent of the floor area. In zone 2 the maximum glazing area shall be~~
17 ~~seventeen percent of the floor area. Throughout the state for the~~
18 ~~purposes of determining equivalent thermal performance, the maximum~~
19 ~~glazing area shall be fifteen percent of the floor area.~~

20 ~~(c) The requirements of (b)(ii) of this subsection do not apply to~~
21 ~~residences with log or solid timber walls with a minimum average~~
22 ~~thickness of three and one half inches and with space heat other than~~
23 ~~electric resistance.~~

24 ~~(d) The state building code council may approve an energy code for~~
25 ~~pilot projects of residential construction that use innovative energy~~
26 ~~efficiency technologies intended to result in savings that are greater~~
27 ~~than those realized in the levels specified in this section.~~

28 ~~(5) U values for glazing shall be determined using the area~~
29 ~~weighted average of all glazing in the building. U values for vertical~~
30 ~~glazing shall be determined, certified, and labeled in accordance with~~
31 ~~the appropriate national fenestration rating council (NFRC) standard,~~
32 ~~as determined and adopted by the state building code council.~~
33 ~~Certification of U values shall be conducted by a certified,~~
34 ~~independent agency licensed by the NFRC. The state building code~~
35 ~~council may develop and adopt alternative methods of determining,~~
36 ~~certifying, and labeling U values for vertical glazing that may be used~~
37 ~~by fenestration manufacturers if determined to be appropriate by the~~
38 ~~council. The state building code council shall review and consider the~~

1 ~~adoption of the NFRC standards for determining, certifying, and~~
2 ~~labeling U values for doors and skylights when developed and published~~
3 ~~by the NFRC. The state building code council may develop and adopt~~
4 ~~appropriate alternative methods for determining, certifying, and~~
5 ~~labeling U values for doors and skylights. U values for doors and~~
6 ~~skylights determined, certified, and labeled in accordance with the~~
7 ~~appropriate NFRC standard shall be acceptable for compliance with the~~
8 ~~state energy code. Sealed insulation glass, where used, shall conform~~
9 ~~to, or be in the process of being tested for, ASTM E 774-81 class A or~~
10 ~~better)) be the 2006 edition of the Washington state energy code, or as~~
11 ~~amended by rule by the council.~~

12 ((+6)) (5) The minimum state energy code for new nonresidential
13 buildings shall be the Washington state energy code, ((1986)) 2006
14 edition, or as amended by the council by rule.

15 ((+7)) (6)(a) Except as provided in (b) of this subsection, the
16 Washington state energy code for residential structures shall preempt
17 the residential energy code of each city, town, and county in the state
18 of Washington.

19 (b) The state energy code for residential structures does not
20 preempt a city, town, or county's energy code for residential
21 structures which exceeds the requirements of the state energy code and
22 which was adopted by the city, town, or county prior to March 1, 1990.
23 Such cities, towns, or counties may not subsequently amend their energy
24 code for residential structures to exceed the requirements adopted
25 prior to March 1, 1990.

26 ((+8)) (7) The state building code council shall consult with the
27 department of community, trade, and economic development as provided in
28 RCW 34.05.310 prior to publication of proposed rules. ~~((The department~~
29 ~~of community, trade, and economic development shall review the proposed~~
30 ~~rules for consistency with the guidelines adopted in subsection (4) of~~
31 ~~this section.))~~ The director of the department of community, trade,
32 and economic development shall recommend to the state building code
33 council any changes necessary to conform the proposed rules to the
34 requirements of this section.

35 (8) The state building code council shall evaluate and consider
36 adoption of the international energy conservation code in Washington
37 state in place of the existing state energy code.

1 (9) The definitions in section 2 of this act apply throughout this
2 section.

3 NEW SECTION. Sec. 5. (1) Except as provided in subsection (2) of
4 this section, residential and nonresidential construction permitted
5 under the 2031 state energy code must achieve a seventy percent
6 reduction in annual net energy consumption, using the adopted 2006
7 Washington state energy code as a baseline.

8 (2) The council shall adopt state energy codes from 2013 through
9 2031 that incrementally move towards achieving the seventy percent
10 reduction in annual net energy consumption as specified in subsection
11 (1) of this section. The council shall report its progress by December
12 31, 2012, and every three years thereafter. If the council determines
13 that economic, technological, or process factors would significantly
14 impede adoption of or compliance with this subsection, the council may
15 defer the implementation of the proposed energy code update and shall
16 report its findings to the legislature by December 31st of the year
17 prior to the year in which those codes would otherwise be enacted.

18 NEW SECTION. Sec. 6. (1) On and after January 1, 2010, qualifying
19 utilities shall maintain records of the energy consumption data of all
20 nonresidential and qualifying public agency buildings to which they
21 provide service. This data must be maintained for at least the most
22 recent twelve months in a format compatible for uploading to the United
23 States environmental protection agency's energy star portfolio manager.

24 (2) On and after January 1, 2010, upon the written authorization or
25 secure electronic authorization of a nonresidential building owner or
26 operator, a qualifying utility shall upload the energy consumption data
27 for the accounts specified by the owner or operator for a building to
28 the United States environmental protection agency's energy star
29 portfolio manager in a form that does not disclose personally
30 identifying information.

31 (3) In carrying out the requirements of this section, a qualifying
32 utility shall use any method for providing the specified data in order
33 to maximize efficiency and minimize overall program cost. Qualifying
34 utilities are encouraged to consult with the United States
35 environmental protection agency and their customers in developing
36 reasonable reporting options.

1 (4) Disclosure of nonpublic nonresidential benchmarking data and
2 ratings required under subsection (5) of this section will be phased in
3 as follows:

4 (a) By January 1, 2011, for buildings greater than fifty thousand
5 square feet; and

6 (b) By January 1, 2012, for buildings greater than ten thousand
7 square feet.

8 (5) Based on the size guidelines in subsection (4) of this section,
9 a building owner or operator, or their agent, of a nonresidential
10 building shall disclose the United States environmental protection
11 agency's energy star portfolio manager benchmarking data and ratings to
12 a prospective buyer, lessee, or lender for the most recent continuously
13 occupied twelve-month period. A building owner or operator, or their
14 agent, who delivers United States environmental protection agency's
15 energy star portfolio manager benchmarking data and ratings to a
16 prospective buyer, lessee, or lender is not required to provide
17 additional information regarding energy consumption, and the
18 information is deemed to be adequate to inform the prospective buyer,
19 lessee, or lender regarding the United States environmental protection
20 agency's energy star portfolio manager benchmarking data and ratings
21 for the most recent twelve-month period for the building that is being
22 sold, leased, financed, or refinanced.

23 (6) Notwithstanding subsections (4) and (5) of this section,
24 nothing in this section increases or decreases the duties, if any, of
25 a building owner, operator, or their agent under this chapter or alters
26 the duty of a seller, agent, or broker to disclose the existence of a
27 material fact affecting the real property.

28 NEW SECTION. **Sec. 7.** By December 31, 2009, to the extent that
29 funding is appropriated specifically for the purposes of this section,
30 the department shall develop and recommend to the legislature a
31 methodology to determine an energy performance score for residential
32 buildings and an implementation strategy to use such information to
33 improve the energy efficiency of the state's existing housing supply.
34 In developing its strategy, the department shall seek input from
35 providers of residential energy audits, utilities, building
36 contractors, mixed use developers, the residential real estate
37 industry, and real estate listing and form providers.

1 NEW SECTION. **Sec. 8.** (1) The requirements of this section apply
2 to the department of general administration and other qualifying state
3 agencies only to the extent that specific appropriations are provided
4 to those agencies referencing this act or chapter number and this
5 section.

6 (2) By July 1, 2010, each qualifying public agency shall:

7 (a) Create an energy benchmark for each reporting public facility
8 using a portfolio manager;

9 (b) Report to general administration, the environmental protection
10 agency national energy performance rating for each reporting public
11 facility included in the technical requirements for this rating; and

12 (c) Link all portfolio manager accounts to the state portfolio
13 manager master account to facilitate public reporting.

14 (3) By January 1, 2010, general administration shall establish a
15 state portfolio manager master account. The account must be designed
16 to provide shared reporting for all reporting public facilities.

17 (4) By July 1, 2010, general administration shall select a
18 standardized portfolio manager report for reporting public facilities.
19 General administration, in collaboration with the United States
20 environmental protection agency, shall make the standard report of each
21 reporting public facility available to the public through the portfolio
22 manager web site.

23 (5) General administration shall prepare a biennial report
24 summarizing the statewide portfolio manager master account reporting
25 data. The first report must be completed by December 1, 2012.
26 Subsequent reporting shall be completed every two years thereafter.

27 (6) By July 1, 2010, general administration shall develop a
28 technical assistance program to facilitate the implementation of a
29 preliminary audit and the investment grade energy audit. General
30 administration shall design the technical assistance program to utilize
31 audit services provided by utilities or energy services contracting
32 companies when possible.

33 (7) For a reporting public facility that is leased by the state
34 with a national energy performance rating score below seventy-five, a
35 qualifying public agency may not enter into a new lease or lease
36 renewal on or after January 1, 2010, unless:

37 (a) A preliminary audit has been conducted within the last two
38 years; and

1 (b) The owner or lessor agrees to perform an investment grade audit
2 and implement any cost-effective energy conservation measures within
3 the first two years of the lease agreement if the preliminary audit has
4 identified potential cost-effective energy conservation measures.

5 (8)(a) Except as provided in (b) of this subsection, for each
6 reporting public facility with a national energy performance rating
7 score below fifty, the qualifying public agency, in consultation with
8 general administration, shall undertake a preliminary energy audit by
9 July 1, 2011. If potential cost-effective energy savings are
10 identified, an investment grade energy audit must be completed by July
11 1, 2013. Implementation of cost-effective energy conservation measures
12 are required by July 1, 2016. For a major facility that is leased by
13 a state agency, college, or university, energy audits and
14 implementation of cost-effective energy conservation measures are
15 required only for that portion of the facility that is leased by the
16 state agency, college, or university.

17 (b) A reporting public facility that is leased by the state is
18 deemed in compliance with (a) of this subsection if the qualifying
19 public agency has already complied with the requirements of subsection
20 (7) of this section.

21 (9) Schools are strongly encouraged to follow the provisions in
22 subsections (2) through (8) of this section.

23 (10) The director of the department of general administration, in
24 consultation with the affected state agencies and the office of
25 financial management, shall review the cost and delivery of agency
26 programs to determine the viability of relocation when a facility
27 leased by the state has a national energy performance rating score
28 below fifty. The department of general administration shall establish
29 a process to determine viability.

30 (11) General administration, in consultation with the office of
31 financial management, shall develop a waiver process for the
32 requirements in subsection (7) of this section. The director of the
33 office of financial management, in consultation with general
34 administration, may waive the requirements in subsection (7) of this
35 section if the director determines that compliance is not cost-
36 effective or feasible. The director of the office of financial
37 management shall consider the review conducted by the department of

1 general administration on the viability of relocation as established in
2 subsection (10) of this section, if applicable, prior to waiving the
3 requirements in subsection (7) of this section.

4 (12) By July 1, 2011, general administration shall conduct a review
5 of facilities not covered by the national energy performance rating.
6 Based on this review, general administration shall develop a portfolio
7 of additional facilities that require preliminary energy audits. For
8 these facilities, the qualifying public agency, in consultation with
9 general administration, shall undertake a preliminary energy audit by
10 July 1, 2012. If potential cost-effective energy savings are
11 identified, an investment grade energy audit must be completed by July
12 1, 2013.

13 NEW SECTION. **Sec. 9.** Sections 2, 3, and 5 through 8 of this act
14 are each added to chapter 19.27A RCW.

Passed by the Senate April 20, 2009.

Passed by the House April 14, 2009.

Approved by the Governor May 8, 2009.

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