
ENGROSSED SUBSTITUTE SENATE BILL 5804

State of Washington

64th Legislature

2015 Regular Session

By Senate Government Operations & Security (originally sponsored by Senators Llias, Benton, Hasegawa, Dammeier, and Angel)

READ FIRST TIME 02/19/15.

1 AN ACT Relating to the procedure for adoption and amendment of
2 the Washington state energy code; and amending RCW 19.27A.020,
3 19.27A.025, and 19.27A.045.

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

5 **Sec. 1.** RCW 19.27A.020 and 2010 c 271 s 304 are each amended to
6 read as follows:

7 (1) The legislature finds that the state building code council
8 ((shall adopt rules to be known as the Washington state energy code
9 as part of the state building code)) adopted and amended by rule the
10 2012 Washington state energy code published by the International Code
11 Council, Inc. The legislature also finds that this code, which is to
12 be known as the Washington state energy code and is part of the state
13 building code adopted in chapter 19.27 RCW, was based on the 2012
14 international energy conservation code.

15 (2) The council ((shall)) must follow the legislature's standards
16 set forth in this section ((to)) and must adopt rules to be known as
17 the Washington state energy code. The Washington state energy code
18 shall be designed to:

19 (a) Construct increasingly energy efficient homes and buildings
20 that help achieve the broader goal of building zero fossil-fuel

1 greenhouse gas emission homes and buildings by the year 2031 as
2 specified in RCW 19.27A.160;

3 (b) Require new buildings to meet a certain level of energy
4 efficiency, but allow flexibility in building design, construction,
5 and heating equipment efficiencies within that framework; and

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

8 (3) The Washington state energy code (~~(shall)~~) must take into
9 account regional climatic conditions. Climate zone 1 (~~(shall)~~)
10 includes all counties not included in climate zone 2. Climate zone 2
11 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln,
12 Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

13 (4) The minimum Washington state energy code for residential and
14 nonresidential buildings (~~(shall be)~~) is the (~~(2006 edition of the~~
15 ~~Washington state energy code, or)~~) 2012 Washington state energy code,
16 as published by the International Code Council, Inc. and as amended
17 by rule by the council.

18 (~~(The minimum state energy code for new nonresidential~~
19 ~~buildings shall be the Washington state energy code, 2006 edition, or~~
20 ~~as amended by the council by rule.~~

21 (~~(6)(a) Except as provided in (b) of this subsection,~~) The
22 Washington state energy code for residential structures shall preempt
23 the residential energy code of each city, town, and county in the
24 state of Washington.

25 (~~((b) The state energy code for residential structures does not~~
26 ~~preempt a city, town, or county's energy code for residential~~
27 ~~structures which exceeds the requirements of the state energy code~~
28 ~~and which was adopted by the city, town, or county prior to March 1,~~
29 ~~1990. Such cities, towns, or counties may not subsequently amend~~
30 ~~their energy code for residential structures to exceed the~~
31 ~~requirements adopted prior to March 1, 1990.~~

32 (~~(7))~~) (6) The state building code council (~~(shall)~~) must consult
33 with the department of (~~(general administration)~~) enterprise services
34 as provided in RCW 34.05.310 prior to publication of proposed rules.
35 The director of the department of (~~(general administration shall)~~)
36 enterprise services must recommend to the state building code council
37 any changes necessary to conform the proposed rules to the
38 requirements of this section.

1 ~~((8) The state building code council shall evaluate and consider~~
2 ~~adoption of the international energy conservation code in Washington~~
3 ~~state in place of the existing state energy code.~~

4 ~~(9))~~ (7) The definitions in RCW 19.27A.140 apply throughout this
5 section.

6 **Sec. 2.** RCW 19.27A.025 and 1991 c 122 s 3 are each amended to
7 read as follows:

8 ~~(1)(a) The minimum state energy code for new nonresidential~~
9 ~~buildings ((shall be)) is the ((Washington state energy code, 1986~~
10 ~~edition, as amended))~~ 2012 Washington state energy code, as published
11 by the International Code Council, Inc. and as amended by the state
12 building code council. The ~~((state building code))~~ council may, by
13 rule adopted pursuant to chapter 34.05 RCW, amend ~~((that code's))~~ the
14 requirements of the code for new nonresidential buildings ~~((provided~~
15 ~~that))~~ if:

16 ~~((a) Such))~~ (i) The amendments increase the energy efficiency of
17 typical newly constructed nonresidential buildings; and

18 ~~((b))~~ (ii) Any new measures, standards, or requirements adopted
19 ~~((must be))~~ as amendments to the Washington state energy code are
20 technically feasible, commercially available, ((and)) cost-effective
21 to building owners and tenants, and based upon an analysis, comments
22 from owners and tenants, as well as other stakeholders, and
23 conclusions by the council that the criteria of this subsection
24 (1)(b) are met.

25 (b) The council must make a determination of the technological,
26 economic, and process factors of each update and determine whether
27 action beyond reporting its findings is necessary as provided in RCW
28 19.27A.160(2).

29 (2) The council, beginning with the development of the 2018
30 Washington state energy code, must endeavor to reduce the number of
31 amendments processed by the council. Stakeholders are encouraged but
32 not required to take concepts and ideas as well as proposed
33 amendments through the international code council's model energy code
34 update process. The purpose is to gather input from participants at
35 the national level and provide any comments and testimony as part of
36 a proposal submittal to the council's process.

37 (3)(a) Any person may propose one or more amendments to the
38 Washington state energy code after the council files a statement of
39 inquiry in accordance with RCW 34.05.310. The proponent of an

1 amendment must indicate the amount of energy efficiency gained due to
2 the proposed amendment and must provide cost/benefit data.

3 (b) The proposed amendment must make one of the following
4 assertions regarding the cost impact of the code change proposal: (i)
5 The code change proposal will increase the cost of construction; or
6 (ii) the code change proposal will not increase the cost of
7 construction. The proponent of the amendment must submit information
8 substantiating the assertion made in (b)(i) or (ii) of this
9 subsection (3) to the council. This information must be considered by
10 the council.

11 (c) Any proposal submitted that does not include the requisite
12 information required in (a) and (b) of this subsection is incomplete
13 and may not be considered by the council.

14 (d) The council must work with stakeholders in developing a
15 multitier process, as appropriate, for the review of amendments. Only
16 complete amendments may move forward for the council's review of
17 substantial amendments to the code. Incomplete amendments and ideas
18 or concepts must be reviewed separately from the review of
19 substantial amendments to the code.

20 (e) The council may only take final action on amendments that
21 have been fully vetted by a technical advisory group or specifically
22 included on the notice for the public hearing pursuant to RCW
23 42.30.060. The council may modify amendments for the purposes of
24 providing clarifying language or for making technical corrections
25 provided such action is consistent with RCW 34.05.328.

26 (4) The council must adopt rules consistent with chapter 19.85
27 RCW, the regulatory fairness act. The council must also evaluate
28 impacts resulting from adoption of the Washington state energy code
29 based on the extent of disproportionate impacts on small businesses
30 and reduce the disproportionate costs imposed by the rule on small
31 businesses.

32 (5)(a) The council, prior to filing notice of a proposed rule
33 under RCW 34.05.320, must evaluate all proposed amendments for their
34 technical feasibility and cost-effectiveness according to national
35 consensus standards. The purpose of the evaluation is to assess the
36 impact of the proposed amendments to the code.

37 (b) The council must work with stakeholders to evaluate various
38 consensus economic methodologies for evaluating the cost/benefit
39 impact of substantial amendments to the codes listed in RCW 19.27.031
40 as well as the energy code. The council, based on work with

1 stakeholders, must select an economic methodology to evaluate the
2 impact of the package of proposals selected for review to be included
3 as substantial amendments to the code. As part of this work, the
4 council must consider methodologies that are simple to use and make
5 the economic evaluation methodology available for individuals to use
6 in making their proposed amendments to the codes in RCW 19.27.031.
7 Periodically, the council must review and determine if the selected
8 economic methodology should be updated. If the council determines an
9 update to the economic methodology is necessary, the council must use
10 the same process specified in this subsection to update the
11 methodology.

12 (6) A filing by the council under RCW 34.05.320 must include an
13 analysis of the cost-effectiveness and the percent of energy
14 efficiency increase gained by the cumulative effect of all the
15 proposed amendments.

16 (7) Rules adopted by the council in accordance with this section
17 are subject to RCW 34.05.328.

18 (8) In considering amendments to the state energy code for
19 nonresidential buildings, the state building code council (~~shall~~)
20 must establish and consult with a technical advisory committee
21 (~~including~~) that includes representatives of appropriate state
22 agencies, local governments, general contractors, building owners and
23 managers, design professionals, utilities, manufacturers, and other
24 interested and affected parties.

25 (~~3~~) (9) Decisions to amend the Washington state energy code
26 for new nonresidential buildings (~~shall~~) must be made prior to
27 December 15th of any year and (~~shall~~) may not take effect before
28 the end of the regular legislative session in the (~~next~~) subsequent
29 year. Any disputed provisions within an amendment presented to the
30 legislature (~~shall~~) must be approved by the legislature before
31 going into effect. A disputed provision is one (~~which~~) that was
32 adopted by the state building code council with less than a two-
33 thirds majority vote. Substantial amendments to the code (~~shall~~)
34 may be adopted no more frequently than every three years.

35 **Sec. 3.** RCW 19.27A.045 and 1990 c 2 s 5 are each amended to read
36 as follows:

37 ~~((The state building code council shall maintain the state energy~~
38 ~~code for residential structures in a status which is consistent with~~
39 ~~the state's interest as set forth in section 1, chapter 2, Laws of~~

1 1990. In maintaining the Washington state energy code for residential
2 structures, beginning in 1996 the council shall review the Washington
3 state energy code every three years. After January 1, 1996, by rule
4 adopted pursuant to chapter 34.05 RCW, the council may amend any
5 provisions of the Washington state energy code to increase the energy
6 efficiency of newly constructed residential buildings. Decisions to
7 amend the Washington state energy code for residential structures
8 shall be made prior to December 1 of any year and shall not take
9 effect before the end of the regular legislative session in the next

10 year.)) (1)(a) The minimum state energy code for new residential
11 buildings is the 2012 Washington state energy code, as published by
12 the International Code Council, Inc. and as amended by the state
13 building code council. The council may, by rule adopted pursuant to
14 chapter 34.05 RCW, amend the requirements of the code for new
15 residential buildings if:

16 (i) The amendments increase the energy efficiency of typical
17 newly constructed residential buildings; and

18 (ii) Any new measures, standards, or requirements adopted as
19 amendments to the Washington state energy code are technically
20 feasible, commercially available, and cost-effective to building
21 owners and tenants.

22 (b) The council must make a determination of the technological,
23 economic, and process factors of each update and determine whether
24 action beyond reporting its findings is necessary as provided in RCW
25 19.27A.160(2).

26 (2) The council, beginning with the development of the 2018
27 Washington state energy code, must endeavor to reduce the number of
28 amendments processed by the council. Stakeholders are encouraged but
29 not required to take concepts and ideas as well as proposed
30 amendments through the international code council's model energy code
31 update process. The purpose is to gather input from participants at
32 the national level and provide any comments and testimony as part of
33 a proposal submittal to the council's process.

34 (3)(a) Any person may propose one or more amendments to the
35 Washington state energy code after the council files a statement of
36 inquiry in accordance with RCW 34.05.310. The proponent of an
37 amendment must indicate the amount of energy efficiency gained due to
38 the proposed amendment and must provide cost/benefit data.

39 (b) The proposed amendment must make one of the following
40 assertions regarding the cost impact of the code change proposal: (i)

1 The code change proposal will increase the cost of construction; or
2 (ii) the code change proposal will not increase the cost of
3 construction. The proponent of the amendment must submit information
4 substantiating the assertion made in (b)(i) or (ii) of this
5 subsection (3) to the council. This information must be considered by
6 the council.

7 (c) Any proposal submitted that does not include the requisite
8 information required in (a) and (b) of this subsection is incomplete
9 and may not be considered by the council.

10 (d) The council must work with stakeholders in developing a
11 multitier process, as appropriate, for the review of amendments. Only
12 complete amendments may move forward for the council's review of
13 substantial amendments to the code. Incomplete amendments and ideas
14 or concepts must be reviewed separately from the review of
15 substantial amendments to the code.

16 (e) The council may only take final action on amendments that
17 have been fully vetted by a technical advisory group or specifically
18 included on the notice for the public hearing pursuant to RCW
19 42.30.060. The council may modify amendments for the purposes of
20 providing clarifying language or for making technical corrections
21 provided such action is consistent with RCW 34.05.328.

22 (4) The council must adopt rules consistent with chapter 19.85
23 RCW, the regulatory fairness act. The council must also evaluate
24 impacts resulting from adoption of the Washington energy code based
25 on the extent of disproportionate impacts on small businesses and
26 reduce the costs imposed by the rule on small businesses.

27 (5)(a) The council, prior to filing notice of a proposed rule
28 under RCW 34.05.320, must evaluate all proposed amendments for their
29 technical feasibility and cost-effectiveness according to national
30 consensus standards. The purpose of the evaluation is to assess the
31 impact of the proposed amendments to the code.

32 (b) The council must work with stakeholders to evaluate various
33 consensus economic methodologies for evaluating the cost/benefit
34 impact of substantial amendments to the codes listed in RCW 19.27.031
35 as well as the energy code. The council, based on work with
36 stakeholders, must select an economic methodology to evaluate the
37 impact of the package of proposals selected for review to be included
38 as substantial amendments to the code. As part of this work, the
39 council must consider methodologies that are simple to use and make
40 the economic evaluation methodology available for individuals to use

1 in making their proposed amendments to the codes in RCW 19.27.031.
2 Periodically, the council must review and determine if the selected
3 economic methodology should be updated. If the council determines an
4 update to the economic methodology is necessary, the council must use
5 the same process specified in this subsection to update the
6 methodology.

7 (6) A filing by the council under RCW 34.05.320 must include an
8 analysis of the cost-effectiveness and the percent of energy
9 efficiency increase gained by the cumulative effect of all the
10 proposed amendments.

11 (7) Rules adopted by the council in accordance with this section
12 are subject to RCW 34.05.328.

13 (8) In considering amendments to the Washington state energy code
14 for residential buildings, the council must establish and consult
15 with a technical advisory committee that includes representatives of
16 appropriate state agencies, local governments, general contractors,
17 building owners and managers, design professionals, utilities,
18 manufacturers, and other interested and affected parties.

19 (9) Decisions to amend the Washington state energy code for new
20 residential buildings must be made prior to December 15th of any year
21 and may not take effect before the end of the regular legislative
22 session in the subsequent year. Substantial amendments to the code
23 may be adopted no more frequently than every three years.

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