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**SUBSTITUTE SENATE BILL 5804**

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**State of Washington 64th Legislature 2015 Regular Session**

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

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

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

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

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

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

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031 as specified in RCW 19.27A.160;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The council must work with stakeholders in developing a two or multitier process, as appropriate, for the review of amendments. It is recognized that good ideas and concepts are often introduced during the review of substantial amendments to the code, but there is not enough information for those to be included in substantial amendments to the code. Only complete amendments may move forward for the council's review of substantial amendments to the code. Incomplete amendments and ideas or concepts must be reviewed separately from the review of substantial amendments to the code.

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

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

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

(b) The council must work with stakeholders to evaluate various consensus economic methodologies for evaluating the cost/benefit impact of substantial amendments to the codes listed in RCW 19.27.031 as well as the energy code. The council, based on work with stakeholders, must select an economic methodology to evaluate the impact of the package of proposals selected for review to be included as substantial amendments to the code. As part of this work, the council must consider methodologies that are simple to use and make the economic evaluation methodology available for individuals to use in making their proposed amendments to the codes in RCW 19.27.031. Periodically, the council must review and determine if the selected economic methodology should be updated. If the council determines an update to the economic methodology is necessary, the council must use the same process specified in this subsection to update the methodology.

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

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

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

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

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

((~~The state building code council shall maintain the state energy code for residential structures in a status which is consistent with the state's interest as set forth in section 1, chapter 2, Laws of 1990. In maintaining the Washington state energy code for residential structures, beginning in 1996 the council shall review the Washington state energy code every three years. After January 1, 1996, by rule adopted pursuant to chapter 34.05 RCW, the council may amend any provisions of the Washington state energy code to increase the energy efficiency of newly constructed residential buildings. Decisions to amend the Washington state energy code for residential structures shall be made prior to December 1 of any year and shall not take effect before the end of the regular legislative session in the next year.~~)) (1)(a) The minimum state energy code for new residential buildings is the 2012 Washington state energy code, as published by the International Code Council, Inc. and as amended by the state building code council. The council may, by rule adopted pursuant to chapter 34.05 RCW, amend the requirements of the code for new residential buildings if:

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

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

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

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

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

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

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

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

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

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

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

(b) The council must work with stakeholders to evaluate various consensus economic methodologies for evaluating the cost/benefit impact of substantial amendments to the codes listed in RCW 19.27.031 as well as the energy code. The council, based on work with stakeholders, must select an economic methodology to evaluate the impact of the package of proposals selected for review to be included as substantial amendments to the code. As part of this work, the council must consider methodologies that are simple to use and make the economic evaluation methodology available for individuals to use in making their proposed amendments to the codes in RCW 19.27.031. Periodically, the council must review and determine if the selected economic methodology should be updated. If the council determines an update to the economic methodology is necessary, the council must use the same process specified in this subsection to update the methodology.

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

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

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

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

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