

**2SHB 1278 - H AMD 58**

By Representative Fitzgibbon

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that reducing  
4 the energy use of buildings is an important component of the state's  
5 effort to meet its greenhouse gas emissions reduction obligations  
6 required by state law. Recent analysis considered by the 2014 climate  
7 change task force established by executive order indicates that more  
8 than one-third of the state's greenhouse gas emissions are  
9 attributable to sources that are associated with building energy use:  
10 Electricity generation and residential, commercial, and industrial  
11 uses of oil, coal, and natural gas.

12 (2) The establishment of meaningful, enforceable requirements for  
13 buildings to disclose their energy use data creates an important  
14 signal to building owners, prospective building owners, tenants, and  
15 others in real estate markets about the true environmental and  
16 financial costs associated with the use of that building. The  
17 disclosure of this information allows real estate market participants  
18 to make decisions that will save them money by lowering their utility  
19 bills and can provide an important incentive for real estate market  
20 participants to invest in emissions-reducing and energy-saving  
21 upgrades. Real-world experience confirms that the addition of  
22 building energy use information to real estate markets provides  
23 incentive for buildings to lower their energy use and associated  
24 greenhouse gas emissions: Analysis by the United States environmental  
25 protection agency has shown that commercial buildings that  
26 participate in a benchmarking program achieve a seven percent  
27 reduction in energy use over their first three years in the program.  
28 By simply providing information to real estate markets through  
29 required disclosure, the state will achieve substantial greenhouse  
30 gas emission reductions by reducing the energy use of buildings.

31 (3) In 2009, the legislature established requirements that  
32 certain nonresidential building owners maintain information about  
33 their building energy use at the time of sale. In the years following  
34 the 2009 legislature's enactment of the current building energy use

1 disclosure requirements, local governments in Washington and  
2 elsewhere have built upon the lessons learned from the state's  
3 implementation of its groundbreaking benchmarking efforts. These  
4 jurisdictions have been able to introduce more complete benchmarking  
5 information across their real estate markets by requiring procedures  
6 to support the consistent submission of building energy use  
7 information, including the establishment of penalties for violations  
8 of energy use disclosure requirements.

9 (4) In recognition of the benefits of establishing compliance  
10 mechanisms to accompany benchmarking requirements, the state energy  
11 strategy recommends improvements to the state's benchmarking law.  
12 This strategic energy report includes a recommendation that the state  
13 receive energy benchmarking data to assess the impact of the program  
14 and to better ensure statewide compliance with building energy  
15 benchmarking requirements. This act moves the state towards meeting  
16 the goals laid out in the state energy strategy by encouraging  
17 market-wide participation in the energy benchmarking program and by  
18 encouraging the consideration of building energy use information  
19 during market transactions.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.27A  
21 RCW to read as follows:

22 (1)(a) The proprietor of each reporting building shall establish  
23 a United States environmental protection agency portfolio manager  
24 account and shall request that a qualifying utility servicing the  
25 reporting building provide the proprietor with energy consumption and  
26 energy cost data for all accounts associated with the reporting  
27 building. The proprietor shall identify to the qualifying utility the  
28 accounts associated with each reporting building.

29 (b) A proprietor of a reporting building shall disclose the  
30 United States environmental protection agency's energy star statement  
31 of energy performance produced using a portfolio manager account to a  
32 prospective buyer, lessee, or lender for the preceding calendar year.  
33 A proprietor who delivers the United States environmental protection  
34 agency's energy star statement of energy performance to a prospective  
35 buyer, lessee, or lender is not required to provide additional  
36 information regarding energy consumption and the information is  
37 deemed to be adequate to inform the prospective buyer, lessee, or  
38 lender regarding the United States environmental protection agency's  
39 energy star statement of energy performance for each month of the

1 preceding calendar year for the building that is being sold, leased,  
2 financed, or refinanced.

3 (2) By April 1, 2017, and April 1st of each year thereafter, the  
4 proprietor of a reporting building must transfer the United States  
5 environmental protection agency's energy star portfolio manager  
6 building characteristics, energy consumption, and energy cost data  
7 for each month of the preceding calendar year to the commerce  
8 portfolio manager account using the portfolio manager sharing  
9 feature. At the time of transfer or within a reasonable time of  
10 transferring data, the proprietor may include an explanatory comment  
11 for each reporting building for the purpose of identifying specific  
12 energy variations, such as occupancy variances or high energy use  
13 tenants. At the time of transfer, the proprietor must indicate to the  
14 department if the reporting building is occupied solely by the  
15 proprietor or by a single tenant, and if the energy consumption,  
16 energy cost, and other benchmarking data of the building relates to  
17 proprietary commercial activity that is unique to the owner or  
18 operator and may adversely affect the competitive position of an  
19 owner or operator if released to the public.

20 (3) If any proprietor of a reporting building discloses  
21 information in good faith concerning a building's energy consumption,  
22 energy cost, or other benchmarking data in accordance with this  
23 chapter, no cause of action shall arise from the disclosure and the  
24 proprietor is not liable to others for the disclosure or its  
25 consequences.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.27A  
27 RCW to read as follows:

28 (1) The department shall establish a United States environmental  
29 protection agency energy star portfolio manager account to support  
30 data sharing transfers from proprietors.

31 (2)(a) The department shall make publicly available the building  
32 characteristics, annual energy consumption, energy cost, ratings, and  
33 other energy use data of reporting buildings, other than buildings  
34 that the proprietor indicates are occupied by the proprietor or by a  
35 single tenant and whose energy data relates to proprietary commercial  
36 activity. The department may not make publicly available building  
37 energy consumption, energy cost, or other benchmarking data that  
38 pertains to buildings occupied solely by the proprietor or by a  
39 single tenant and whose energy use relates to proprietary commercial

1 activity that is unique to the owner or operator and may adversely  
2 affect the competitive position of an owner or operator if released  
3 to the public, unless that data is aggregated with data from other  
4 buildings.

5 (b) For each reporting building, the department shall identify  
6 the city, county, and qualifying utility that provides service to the  
7 reporting building. The department must periodically update the  
8 building characteristics, energy consumption, and energy cost data  
9 and ratings that it makes available under this subsection. The  
10 department must make any explanatory comments received under section  
11 2(2) of this act publicly available.

12 (3) Beginning June 1, 2017, and by June 1st of each subsequent  
13 year, the department shall analyze the data sharing transfers from  
14 proprietors and other supporting information to determine:

15 (a) Which reporting buildings in Washington have disclosed and  
16 transferred the information required by section 2 of this act during  
17 the preceding calendar year; and

18 (b) Which reporting buildings in Washington have failed to  
19 disclose and transfer the information required by section 2 of this  
20 act.

21 (4) If the department makes publicly available reporting building  
22 energy consumption, energy cost data, or other benchmarking data or  
23 information in good faith in accordance with this chapter and chapter  
24 42.56 RCW, no cause of action shall arise from the disclosure and the  
25 department is not liable to others for the disclosure or its  
26 consequences.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.27A  
28 RCW to read as follows:

29 (1) The department is authorized to enforce the disclosure  
30 requirements for proprietors under RCW 19.27A.170 and section 2 of  
31 this act. The department is authorized to investigate and determine  
32 if a proprietor or a qualifying utility that is a consumer-owned  
33 utility has not complied with the requirements of RCW 19.27A.170 or  
34 section 2 of this act. The department shall work with qualifying  
35 consumer-owned utilities and proprietors to come into compliance with  
36 the energy benchmarking requirements of this chapter.

37 (2) The commission may adopt rules to ensure the proper  
38 implementation and enforcement of RCW 19.27A.170 as applied to  
39 investor-owned utilities. The commission may coordinate with the

1 department to ensure that information provided by investor-owned  
2 utilities is consistent with the goals of the state energy strategy.

3 **Sec. 5.** RCW 19.27A.140 and 2011 1st sp.s. c 43 s 245 are each  
4 amended to read as follows:

5 The definitions in this section apply to RCW 19.27A.130 through  
6 19.27A.190 (~~and~~), 19.27A.020, and sections 2, 3, and 4 of this act  
7 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

1 (7) "Energy consumption data" means the monthly amount of energy  
2 consumed by a customer as recorded by the applicable energy meter for  
3 the most recent twelve-month period.

4 (8) "Energy service company" has the same meaning as in RCW  
5 43.19.670.

6 (9) "Enterprise services" means the department of enterprise  
7 services.

8 (10) "Greenhouse gas" and "greenhouse gases" includes carbon  
9 dioxide, methane, nitrous oxide, hydrofluorocarbons,  
10 perfluorocarbons, and sulfur hexafluoride.

11 (11) "Investment grade energy audit" means an intensive  
12 engineering analysis of energy efficiency and management measures for  
13 the facility, net energy savings, and a cost-effectiveness  
14 determination.

15 (12) "Investor-owned utility" means a corporation owned by  
16 investors that meets the definition of "corporation" as defined in  
17 RCW 80.04.010 and is engaged in distributing either electricity or  
18 natural gas, or both, to more than one retail electric customer in  
19 the state.

20 (13) "Major facility" means any publicly owned or leased  
21 building, or a group of such buildings at a single site, having ten  
22 thousand square feet or more of conditioned floor space.

23 (14) "National energy performance rating" means the score  
24 provided by the energy star program, to indicate the energy  
25 efficiency performance of the building compared to similar buildings  
26 in that climate as defined in the United States environmental  
27 protection agency "ENERGY STAR® Performance Ratings Technical  
28 Methodology."

29 (15) "Net zero energy use" means a building with net energy  
30 consumption of zero over a typical year.

31 (16) "Portfolio manager" means the United States environmental  
32 protection agency's energy star portfolio manager (~~or an equivalent~~  
33 ~~tool adopted by the department of enterprise services~~).

34 (17) "Preliminary energy audit" means a quick evaluation by an  
35 energy service company of the energy savings potential of a building.

36 (18) "Qualifying public agency" includes all state agencies,  
37 colleges, and universities.

38 (19) "Qualifying utility" means a consumer-owned or investor-  
39 owned gas or electric utility that serves more than twenty-five  
40 thousand customers in the state of Washington.

1 (20) "Reporting public facility" means any of the following:

2 (a) A building or structure, or a group of buildings or  
3 structures at a single site, owned by a qualifying public agency,  
4 that exceed ten thousand square feet of conditioned space;

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

9 (c) A wastewater treatment facility owned by a qualifying public  
10 agency; or

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

12 (21) "State portfolio manager master account" means a portfolio  
13 manager account established to provide a single shared portfolio that  
14 includes reports for all the reporting public facilities.

15 (22) "Building characteristics" means the building size, age,  
16 primary function, address, and other information required to create a  
17 statement of energy performance.

18 (23) "Commerce portfolio manager account" means the portfolio  
19 manager master account created by the department pursuant to section  
20 3 of this act.

21 (24) "Commission" means the utilities and transportation  
22 commission.

23 (25) "Department" means the department of commerce.

24 (26) "Energy cost" means the total cost of service to the  
25 customer during a billing period, inclusive of all energy costs,  
26 fees, taxes, and other charges.

27 (27) "Proprietor" means the owner or operator of a building or an  
28 agent acting on behalf of the owner or operator of a building.

29 (28) "Reporting building" means:

30 (a) A building that exceeds twenty thousand square feet of  
31 conditioned space except for a building that:

32 (i) Is a factory group F building, a residential group R building  
33 other than a group R-2 building containing five or more dwelling  
34 units, or a miscellaneous and utility group U building, as defined in  
35 the 2012 Washington state building code; or

36 (ii) Does not receive gas or electric service from a utility that  
37 is not a qualifying utility.

38 (b) A campus of buildings that are served by a shared energy  
39 utility account and together exceed twenty thousand square feet of  
40 conditioned space, except for a campus of buildings that:

1 (i) Are comprised exclusively of any combination of factory group  
2 F buildings, residential group R buildings other than a group R-2  
3 building containing five or more dwelling units, or miscellaneous and  
4 utility group U buildings, as defined in the 2012 Washington state  
5 building code; or

6 (ii) Do not receive gas or electric service from a utility that  
7 is not a qualifying utility.

8 **Sec. 6.** RCW 19.27A.170 and 2009 c 423 s 6 are each amended to  
9 read as follows:

10 ~~((On and after January 1, 2010,))~~ Qualifying utilities shall  
11 maintain records of the energy consumption data of all  
12 ~~((nonresidential and qualifying public agency buildings))~~ customer  
13 accounts to which they provide service. This data must be maintained  
14 ~~((for at least the most recent twelve months))~~ in a format compatible  
15 for uploading to the United States environmental protection agency's  
16 energy star portfolio manager. In carrying out the requirements of  
17 this section, qualifying utilities shall update energy consumption  
18 and energy cost data each billing period. The data updated by  
19 qualifying utilities must be continuous and date back to no later  
20 than January 1, 2016.

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

29 (3) Until January 1, 2017, in carrying out the requirements of  
30 this section, a qualifying utility shall use any method for providing  
31 the specified data in order to maximize efficiency and minimize  
32 overall program cost. Qualifying utilities are encouraged to consult  
33 with the United States environmental protection agency and their  
34 customers in developing reasonable reporting options. After January  
35 1, 2017, qualifying utilities shall upload the reporting building  
36 energy consumption and energy cost data by using energy star  
37 portfolio manager web services in order to automatically upload the  
38 specified data to the United States environmental protection agency's  
39 energy star portfolio manager.

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

24           ~~(6) Notwithstanding subsections (4) and (5) of this section,))~~  
25 ~~Nothing in this section ((increases or decreases the duties, if any,~~  
26 ~~of a building owner, operator, or their agent under this chapter)) or~~  
27 ~~section 2 of this act alters the duty of a seller, agent, or broker~~  
28 ~~to disclose the existence of a material fact affecting the real~~  
29 ~~property.~~

30           (5) Nothing in this section or section 3 of this act changes or  
31 limits the authority of a public entity to adopt building energy use  
32 disclosure requirements that are in addition to the requirements  
33 imposed by this section. The adoption of building energy use  
34 disclosure requirements that are in addition to the requirements of  
35 this chapter by a public entity does not affect the obligation of a  
36 utility or proprietor to comply with the requirements of this  
37 chapter.

38           (6) If any qualifying utility discloses information in good faith  
39 concerning energy consumption, energy cost, or other benchmarking  
40 data in accordance with this chapter and in compliance with other

1 applicable laws and rules concerning disclosure of customer  
2 information, the qualifying utility is not liable to its customer or  
3 others for the consequences of the disclosure.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.27A  
5 RCW to read as follows:

6 (1)(a) If the department determines that a proprietor is not in  
7 compliance with the disclosure requirements of RCW 19.27A.170 or  
8 section 2 of this act, the department may issue a written notice of  
9 violation to the proprietor. The notice must state the requirement  
10 that was violated and any penalties imposed as a result of the  
11 violation.

12 (b) The department may impose the following penalties on a  
13 proprietor for the failure to disclose and transfer the building  
14 energy use benchmarking data as required by section 2 of this act:

15 (i) If the proprietor is not in compliance with the disclosure  
16 requirements of section 2 of this act within ninety days of receipt  
17 of the notice of violation, the department may impose a penalty of up  
18 to five hundred dollars;

19 (ii) If the proprietor is not in compliance with the disclosure  
20 requirements of section 2 of this act within one hundred eighty days  
21 of receipt of the notice of violation, the department may impose a  
22 total cumulative penalty of up to one thousand dollars;

23 (iii) If the proprietor is not in compliance with the disclosure  
24 requirements of section 2 of this act within two hundred seventy days  
25 of receipt of the notice of violation, the department may impose a  
26 total cumulative penalty of up to two thousand dollars; and

27 (iv) If the proprietor is not in compliance with the disclosure  
28 requirements of section 2 of this act within three hundred sixty days  
29 of receipt of the notice of violation, the department may impose a  
30 total cumulative penalty of up to four thousand dollars.

31 (2) In addition to the penalties authorized in subsection (1) of  
32 this section, the department may concurrently impose a separate and  
33 additional fine of up to five hundred dollars if the proprietor has  
34 previously been served with a notice of violation associated with the  
35 building under this chapter.

36 (3) If the department determines that the proprietor has complied  
37 with the disclosure requirements of section 2 of this act within  
38 ninety days of receipt of the notice of violation and the proprietor  
39 has not previously been served with a notice of violation by the

1 department, the department must waive the penalty for the violation.  
2 The department may consider any technical difficulties experienced by  
3 a proprietor with the portfolio manager system in determining whether  
4 to assess or waive a penalty under this section.

5 (4) The authority of the department to issue penalties pursuant  
6 to this section is phased in as follows:

7 (a) After October 1, 2017, for violations associated with  
8 buildings greater than seventy-five thousand square feet that took  
9 place in calendar year 2016 or later;

10 (b) After April 1, 2018, for violations associated with buildings  
11 greater than fifty thousand square feet that took place in calendar  
12 year 2017 or later; and

13 (c) After April 1, 2019, for violations associated with buildings  
14 greater than twenty thousand square feet that took place in calendar  
15 year 2018 or later.

16 (5) A proprietor may appeal any penalties imposed pursuant to  
17 this section to the pollution control hearings board pursuant to the  
18 procedures established by RCW 43.21B.300.

19 (6) All penalties recovered under this section shall be paid into  
20 the state treasury and credited to the general fund.

21 **Sec. 8.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to  
22 read as follows:

23 (1) The hearings board shall only have jurisdiction to hear and  
24 decide appeals from the following decisions of the department, the  
25 director, local conservation districts, the air pollution control  
26 boards or authorities as established pursuant to chapter 70.94 RCW,  
27 local health departments, the department of natural resources, the  
28 department of fish and wildlife, the parks and recreation commission,  
29 and authorized public entities described in chapter 79.100 RCW:

30 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
31 70.94.431, section 7 of this act, 70.105.080, 70.107.050, 76.09.170,  
32 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
33 90.56.310, 90.56.330, and 90.64.102.

34 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
35 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
36 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

37 (c) A final decision by the department or director made under  
38 chapter 183, Laws of 2009.

1 (d) Except as provided in RCW 90.03.210(2), the issuance,  
2 modification, or termination of any permit, certificate, or license  
3 by the department or any air authority in the exercise of its  
4 jurisdiction, including the issuance or termination of a waste  
5 disposal permit, the denial of an application for a waste disposal  
6 permit, the modification of the conditions or the terms of a waste  
7 disposal permit, or a decision to approve or deny an application for  
8 a solid waste permit exemption under RCW 70.95.300.

9 (e) Decisions of local health departments regarding the grant or  
10 denial of solid waste permits pursuant to chapter 70.95 RCW.

11 (f) Decisions of local health departments regarding the issuance  
12 and enforcement of permits to use or dispose of biosolids under RCW  
13 70.95J.080.

14 (g) Decisions of the department regarding waste-derived  
15 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
16 decisions of the department regarding waste-derived soil amendments  
17 under RCW 70.95.205.

18 (h) Decisions of local conservation districts related to the  
19 denial of approval or denial of certification of a dairy nutrient  
20 management plan; conditions contained in a plan; application of any  
21 dairy nutrient management practices, standards, methods, and  
22 technologies to a particular dairy farm; and failure to adhere to the  
23 plan review and approval timelines in RCW 90.64.026.

24 (i) Any other decision by the department or an air authority  
25 which pursuant to law must be decided as an adjudicative proceeding  
26 under chapter 34.05 RCW.

27 (j) Decisions of the department of natural resources, the  
28 department of fish and wildlife, and the department that are  
29 reviewable under chapter 76.09 RCW, and the department of natural  
30 resources' appeals of county, city, or town objections under RCW  
31 76.09.050(7).

32 (k) Forest health hazard orders issued by the commissioner of  
33 public lands under RCW 76.06.180.

34 (l) Decisions of the department of fish and wildlife to issue,  
35 deny, condition, or modify a hydraulic project approval permit under  
36 chapter 77.55 RCW.

37 (m) Decisions of the department of natural resources that are  
38 reviewable under RCW 78.44.270.

39 (n) Decisions of an authorized public entity under RCW 79.100.010  
40 to take temporary possession or custody of a vessel or to contest the

1 amount of reimbursement owed that are reviewable by the hearings  
2 board under RCW 79.100.120.

3 (2) The following hearings shall not be conducted by the hearings  
4 board:

5 (a) Hearings required by law to be conducted by the shorelines  
6 hearings board pursuant to chapter 90.58 RCW.

7 (b) Hearings conducted by the department pursuant to RCW  
8 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
9 90.44.180.

10 (c) Appeals of decisions by the department under RCW 90.03.110  
11 and 90.44.220.

12 (d) Hearings conducted by the department to adopt, modify, or  
13 repeal rules.

14 (3) Review of rules and regulations adopted by the hearings board  
15 shall be subject to review in accordance with the provisions of the  
16 administrative procedure act, chapter 34.05 RCW.

17 **Sec. 9.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to  
18 read as follows:

19 (1) The hearings board shall only have jurisdiction to hear and  
20 decide appeals from the following decisions of the department, the  
21 director, local conservation districts, the air pollution control  
22 boards or authorities as established pursuant to chapter 70.94 RCW,  
23 local health departments, the department of natural resources, the  
24 department of fish and wildlife, the parks and recreation commission,  
25 and authorized public entities described in chapter 79.100 RCW:

26 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
27 70.94.431, section 7 of this act, 70.105.080, 70.107.050, 76.09.170,  
28 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
29 90.56.310, 90.56.330, and 90.64.102.

30 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
31 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
32 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

33 (c) Except as provided in RCW 90.03.210(2), the issuance,  
34 modification, or termination of any permit, certificate, or license  
35 by the department or any air authority in the exercise of its  
36 jurisdiction, including the issuance or termination of a waste  
37 disposal permit, the denial of an application for a waste disposal  
38 permit, the modification of the conditions or the terms of a waste

1 disposal permit, or a decision to approve or deny an application for  
2 a solid waste permit exemption under RCW 70.95.300.

3 (d) Decisions of local health departments regarding the grant or  
4 denial of solid waste permits pursuant to chapter 70.95 RCW.

5 (e) Decisions of local health departments regarding the issuance  
6 and enforcement of permits to use or dispose of biosolids under RCW  
7 70.95J.080.

8 (f) Decisions of the department regarding waste-derived  
9 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
10 decisions of the department regarding waste-derived soil amendments  
11 under RCW 70.95.205.

12 (g) Decisions of local conservation districts related to the  
13 denial of approval or denial of certification of a dairy nutrient  
14 management plan; conditions contained in a plan; application of any  
15 dairy nutrient management practices, standards, methods, and  
16 technologies to a particular dairy farm; and failure to adhere to the  
17 plan review and approval timelines in RCW 90.64.026.

18 (h) Any other decision by the department or an air authority  
19 which pursuant to law must be decided as an adjudicative proceeding  
20 under chapter 34.05 RCW.

21 (i) Decisions of the department of natural resources, the  
22 department of fish and wildlife, and the department that are  
23 reviewable under chapter 76.09 RCW, and the department of natural  
24 resources' appeals of county, city, or town objections under RCW  
25 76.09.050(7).

26 (j) Forest health hazard orders issued by the commissioner of  
27 public lands under RCW 76.06.180.

28 (k) Decisions of the department of fish and wildlife to issue,  
29 deny, condition, or modify a hydraulic project approval permit under  
30 chapter 77.55 RCW.

31 (l) Decisions of the department of natural resources that are  
32 reviewable under RCW 78.44.270.

33 (m) Decisions of an authorized public entity under RCW 79.100.010  
34 to take temporary possession or custody of a vessel or to contest the  
35 amount of reimbursement owed that are reviewable by the hearings  
36 board under RCW 79.100.120.

37 (2) The following hearings shall not be conducted by the hearings  
38 board:

39 (a) Hearings required by law to be conducted by the shorelines  
40 hearings board pursuant to chapter 90.58 RCW.

1 (b) Hearings conducted by the department pursuant to RCW  
2 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
3 90.44.180.

4 (c) Appeals of decisions by the department under RCW 90.03.110  
5 and 90.44.220.

6 (d) Hearings conducted by the department to adopt, modify, or  
7 repeal rules.

8 (3) Review of rules and regulations adopted by the hearings board  
9 shall be subject to review in accordance with the provisions of the  
10 administrative procedure act, chapter 34.05 RCW.

11 NEW SECTION. **Sec. 10.** Section 8 of this act expires June 30,  
12 2019.

13 NEW SECTION. **Sec. 11.** Section 9 of this act takes effect June  
14 30, 2019."

15 Correct the title.

EFFECT: Transfers oversight of investor-owned utility energy use disclosure activities from the department of commerce to the utilities and transportation commission. Authorizes the utilities and transportation commission to adopt rules related to the administration and enforcement of investor-owned utility energy use disclosure activities. Provides that the department of commerce must disclose energy use information in accordance with the public records act in order for the department to be shielded from causes of action. Provides that utilities must disclose energy use information in accordance with other applicable laws and rules in order to avoid liability associated with energy use information disclosure. Specifies that proprietary single-occupant building energy use information must be unique and have the potential to adversely affect the competitive position of the building occupant, in order for the information to be restricted from public disclosure by the department of commerce. Specifies that energy cost information includes the total service cost to a customer during a billing period, inclusive of all fees, taxes, and other charges.

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