

HOUSE BILL REPORT

E2SHB 1747

As Passed House:

March 9, 2009

Title: An act relating to reducing climate pollution in the built environment.

Brief Description: Reducing climate pollution in the built environment.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Rolfes, Chase, Upthegrove, Hasegawa, Eddy, Lias, Ormsby, Pedersen, Dunshee, McCoy, Morris, Carlyle, Dickerson, Hudgins, Moeller, Sells, Kenney, White and Nelson).

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/2/09, 2/4/09, 2/19/09 [DPS];

Ways & Means: 2/27/09, 3/2/09 [DP2S(w/o sub TEC)].

Floor Activity

Passed House: 3/9/09, 70-25.

Brief Summary of Engrossed Second Substitute Bill

- Establishes performance standards, benchmarking, and other reporting requirements for public buildings.
- Requires utilities to record and upload energy consumption data for public buildings, and for non-public, non-residential buildings.
- Provides that residential and non-residential construction permitted under the 2031 State Energy Code must achieve a 70 percent reduction in annual net energy consumption using the 2006 State Energy Code as a baseline.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives McCoy, Chair; Eddy, Vice Chair; Carlyle, Finn, Hasegawa, Hudgins, Jacks, Morris, Takko and Van De Wege.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 5 members: Representatives Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Condotta, Herrera and McCune.

Staff: Kara Durbin (786-7133)

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Energy & Communications. Signed by 14 members: Representatives Linville, Chair; Ericks, Vice Chair; Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Pettigrew, Priest, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Hinkle, Kessler, Ross and Schmick.

Staff: Steve Smith (786-7178)

Background:

State Energy Code.

The State Energy Code (Code) is part of the State Building Code, which sets the minimum construction requirements for buildings in the state. The Code provides a minimum level of energy efficiency for residential and non-residential buildings, but allows flexibility in building design, construction, and heating equipment efficiencies.

The State Building Code Council (Council) maintains the Code and may amend the Code by rule. The Code was last amended in 2006. The deadline for the proposed 2009 changes to the Code is March of 2009.

Energy Star.

In 1992 the U.S. Environmental Protection Agency introduced Energy Star as a voluntary labeling program designed to identify and promote energy efficient products. Since its inception in 1992, the Energy Star program has expanded to include technical information and energy management tools.

One of the energy management tools offered by Energy Star is called the Portfolio Manager program. The Portfolio Manager program is used to track and assess energy and water consumption for an individual building or an entire building portfolio. Energy consumption and cost data can be entered into a Portfolio Manager account to track energy performance, assess energy management goals, and identify areas for savings.

Another tool offered by Energy Star is the National Energy Performance Rating System. This rating system is a type of external benchmark that assesses how efficiently a particular building uses energy, as compared to similar buildings nationwide. The rating system ranges

from one to 100. A rating of 50 indicates average energy performance, while a rating of 75 or better indicates above-average energy performance.

Climate Action Team.

The Climate Action Team (CAT), a broad-based group of Washington business, academic, tribal, state and local government, labor, religious, and environmental leaders worked throughout 2007 and 2008 to develop a comprehensive set of state-level policy recommendations that are intended to help meet the state's mandatory requirements for reducing greenhouse gas emissions to 1990 levels by 2020, and 50 percent below 1990 levels by 2050.

The CAT focused its efforts in four areas through Implementation Work Groups: the built environment, transportation, reducing the waste stream, and the role of the State Environmental Policy Act.

The Energy Efficiency and Green Buildings (EEGB) Implementation Work Group's objective was to identify actions that could result in significant emission reductions in Washington's built environment, both directly through reduced use of fossil fuel-based energy and indirectly by reducing the use of greenhouse gas emissions intensive products.

The EEGB made three recommendations to the CAT in its final report:

1. Incentive-based approaches should be established to encourage the design, construction, and operation of buildings with superior energy performance, as well as to encourage the use of combined heat and power, distributed electricity generation, and other distributed and district energy and water systems.
2. The energy efficiency of public buildings should be upgraded through performance standards, benchmarking requirements, and other measures.
3. The Washington State Energy Code should be revised to achieve a 30 percent reduction in new building energy use, and a long-term state building and carbon reduction strategy should be established.

Conservation Programs.

Consistent with the provisions of the Washington Constitution, municipal utilities and public utility districts may assist customers in energy conservation measures for existing structures, provided that any financing provided does not result in a conversion from one energy source to another. Energy conservation measures in existing structures may include installation of a distributed electricity generation system that uses a renewable resource that is available on-site.

Several municipal utilities and public utility districts operate conservation programs. Typically these programs offer rebates to customers for purchasing more efficient products, such as Energy Star certified appliances or compact fluorescent bulbs, or offer loans to customers for efficiency measures, such as weatherization.

Summary of Engrossed Second Substitute Bill:

State Energy Code.

The State Energy Code (Code) for residential and non-residential buildings must reflect the 2006 edition of the Code, or as it may be amended by the State Building Code Council (Council) by rule. Existing technical standards for residential buildings, which have been superseded by rule, are removed.

Residential and non-residential construction permitted under the 2031 State Energy Code must achieve a 70 percent reduction in energy use, using the 2006 State Energy Code as the baseline. The Council must adopt state energy codes between 2013 and 2031 that incrementally move the state towards achieving the 2031 State Energy Code standards. If the Council determines that economic, technological, or process factors would significantly impede adoption of or compliance with the proposed energy codes, the Council may defer implementation.

Energy Efficiency Strategic Plan.

The Department of Community, Trade and Economic Development (CTED) must develop and implement a strategic plan for enhancing energy efficiency and reducing greenhouse gas emissions from homes, buildings, districts and neighborhoods. This plan must be used to direct future increases in the Code. The plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome those barriers in updated energy codes and policies. The Council and the CTED must convene a work group to inform the initial development of the strategic plan. The plan must be completed by December 31, 2010.

Energy Consumption Data.

Beginning January 1, 2010, qualifying utilities must maintain records of energy consumption data for all non-residential and qualifying public agency buildings for which they provide service. Upon receiving authorization from a non-residential building owner or operator, the qualifying utility must upload all of the energy consumption data associated with that building to the Portfolio Manager. Non-public, non-residential building performance data must be uploaded either in 2011 or 2012, depending on the size of the building. This data must be disclosed to a prospective buyer, lessee, or lender.

Energy Benchmarks.

By January 1, 2010, the Department of General Administration (GA) must establish a State Portfolio Manager Master Account.

By July 1, 2010, each qualifying public agency must: (1) create an energy benchmark using a portfolio manager; (2) report the rating for each reporting public facility; and (3) link all portfolio manager accounts to the State Portfolio Manager Master Account.

Any reporting public facility with a National Energy Performance Rating score below 50 must undertake a preliminary energy audit by July 1, 2011. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013, with implementation of the cost-effective energy conservation measures by July 1, 2016.

The GA must review the viability of relocation for any facility leased by the state that has a National Energy Performance Rating score below 50.

Buildings that are not covered by the National Energy Performance Rating score must undertake a preliminary energy audit by July 1, 2012. If cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013.

Appropriation: None.

Fiscal Note: Available. Requested on Proposed Second Substitute Bill on February 27, 2009.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Technology, Energy & Communications):

(In support) Energy efficiency is the cheapest, quickest, and cleanest way to meet growing energy needs. Energy efficiency can create new jobs and speed economic recovery. It also can reduce our need to invest in very expensive generation sources. Energy efficiency is something we can start doing today to reduce our greenhouse gas emissions and also help consumers reduce their energy costs. This bill is a compliment to utility efforts on conservation. Providing consumers with more information related to their energy consumption leads to better investments. Four years ago the Legislature improved building standards for public buildings. This was a good first step. This bill contains achievable energy efficiency standards for the private sector that can be phased in over time. Meeting a 40 percent reduction by 2013 is achievable. We saw how incorporating Leadership in Energy and Environmental Design standards drove the marketplace.

This bill provides the tools we need. Our state needs a coordinated strategy for energy efficiency. Good data is needed to quantify life cycle/energy consumption of buildings. This bill will set the stage for funding energy efficiency projects.

Financing assistance is needed to make these energy efficiency or renewable energy measures work. Our state needs a longer range perspective. This bill pursues a community-based financing model because it brings more stakeholders at the community level involved to decide and make those investments. When appropriate, it may encourage municipalities to pool funding together (lower transaction fees and interest rates possibly).

This bill is beneficial for homeowners. Incorporating energy audits at the point of sale is helpful. The market cannot value what it doesn't know

(In support with concerns) If the efficiency of a building achieves greater efficiency than estimated, there should be additional incentives. Providing grants, offering preferred financing, or state certifying should encourage this. Developers need to see cost-effective solutions for buildings to meet particular performance requirements. On-site generation of alternative energy resources may not be appropriate for all buildings sites.

This is one of many steps we must take to deal with climate change. We support the call for a strategic plan to guide the state towards lowering energy use in buildings. Low-income weatherization is important. The creation of conservation utilities by cities and counties may

slow down rather than accelerate energy efficiency. We do not support cutting existing programs to pay for energy efficiency measures.

(With concerns) We are concerned that the federal stimulus package names different codes/standards than this bill does. We should follow international building code standards rather than the State Energy Code. We need to do a better job enforcing the state energy codes that we have. Building officials are concerned about how to meet benchmarking and what level of staffing will be needed to do that.

(Opposed) These goals are too laudable and will be difficult to achieve. We need to be mindful of what the final product will cost. It is important to set goals, but they must be realistic. This bill raises concerns about affordable housing. Achieving a 70 percent reduction by 2031 may not be realistic. It is not clear whether the necessary technology and the materials will be available.

Some utilities question the compatibility between conservation requirements in Initiative 937 and these reductions. The creation of conservation utilities may fragment energy efficiency efforts and create overlapping programs.

Realtors oppose having the Department of Community, Trade and Economic Development (CTED) recommend a mandate for an energy audit at the point of sale. The Seller Disclosure Law is a consumer protection law. It should not require a seller to undertake research on an energy audit.

Staff Summary of Public Testimony (Ways & Means):

(In support) The second substitute house bill put together many of the policy concerns that had been heard in the business community. There does not appear to be a large fiscal impact, and a large part of this bill is in promoting energy efficiency throughout the state by providing energy audits on our own state buildings.

The American Institute of Architects American Council believes that architects can and should take responsibility for the impacts of their buildings, and therefore set forth a national policy called the "2030 challenge," that states that buildings should be using "net zero" fossil fuels by the year 2030. This is urgent because, according to the Department of Energy, buildings consume 40 percent of primary energy and 70 percent of the electricity generated in the United States. Buildings are also responsible for 50 percent of the fossil fuel impact, which leads to a direct greenhouse gas impact. By 2025, commercial building energy consumption is expected to increase by 50 percent; therefore, the problem is worsening. By 2035, 75 percent of the country's building stock is expected to be new or substantially renovated. The year 2035 is an important point in time because that is the point at which new code requirements are triggered. We now have an opportunity to set up policy that will have longer-term effects.

The Northwest Energy Coalition also supports this bill. This modest investment by the state will save both public - and private - sector utility bills through savings on utility bills; it will create jobs and spur economic development opportunities. Building owners will realize

savings from efficiencies, and all consumers will benefit from this bill. Net zero energy is feasible now, and will become more feasible in the near future.

(Opposed) None.

Persons Testifying (Technology, Energy & Communications): (In support) Representative Rolfes, prime sponsor; Nancy Hirsch, City of Seattle; Stan Bowman and Jennifer Barnes, The American Institute of Architects; Craig Engelking, Sierra Club; Marian Wineman, Washington State League of Women Voters; Court Olsen; Aaron Fairchild; Terry Hull, Shore Bank Enterprise Cascadia; Stacy Noland, Moontown Foundation; and Miguel Perez-Gibson, Climate Solutions.

(In support with concerns) Loren Bors; Douglas Bors, Sophometrics; and Noah Reandean, Northwest Energy Efficiency Council.

(With concerns) John Darnall and Kraig Stevenson, International Code Council; and John Neff, Washington Association of Building Officials.

(Opposed) Patrick McBride; Chris McCabe, Association of Washington Business; Ken Johnson, Puget Sound Energy; and Bill Clarke, Washington Realtors.

Persons Testifying (Ways & Means): Representative Rolfes, prime sponsor; Stan Bowman, American Institute of Architects - Washington; and Carrie Dolwick, Northwest Energy Coalition.

Persons Signed In To Testify But Not Testifying (Technology, Energy & Communications): None.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.