
Environment Committee

HB 1278

Brief Description: Concerning building energy use disclosure requirements.

Sponsors: Representatives Fitzgibbon, Dunshee, Farrell, S. Hunt, Peterson, Fey and Tarleton.

Brief Summary of Bill

- Requires certain building owners to track the energy use of their buildings and disclose it to the Department of Ecology to be made publicly available.
- Authorizes the Department of Ecology to penalize building owners that fail to disclose required energy use information.
- Requires electric and natural gas utilities serving more than 25,000 customers to maintain and automatically update customer energy use data using a shareable internet-based tool created by the United States Environmental Protection Agency.
- Requires electric and natural gas utilities to include recent energy use and energy cost information on the billing statements sent to customers.

Hearing Date: 1/22/15

Staff: Jacob Lipson (786-7196).

Background:

Energy Benchmarking Requirements.

In 2009 the Legislature enacted a law that requires gas and electric utilities serving more than 25,000 customers to maintain energy use data for nonresidential buildings and certain public agency buildings. This data must be maintained in such a way as to allow it to be inputted into the United States Environmental Protection Agency's Energy Star Portfolio Manager (Portfolio Manager), which is an internet-based program that allows users to track their energy consumption data and to benchmark the energy use of their buildings against comparable buildings.

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.

Upon building-owner authorization, a utility must upload building energy use data into Portfolio Manager. In doing so, the utility may not disclose personally identifying information.

Owners of nonresidential buildings that are over 10,000 square feet in size must disclose Portfolio Manager benchmarking data and ratings for the previous twelve months to prospective buyers, lenders, or renters. There are not penalties specified for noncompliance with disclosure requirements.

Types of Buildings.

The State Building Code Council periodically updates the State Building Code, which is based on the International Building Code. The State Building Code categorizes buildings based on their functions, including:

- residential buildings, which are divided into several subcategories, including "R-2" buildings such as apartments, hotels, timeshare properties, and fraternities and sororities;
- factory buildings, which include buildings used for assembling, fabricating, manufacturing, packaging, repair, or processing operations; and
- utility and miscellaneous buildings, which include agricultural buildings, aircraft hangers, greenhouses, and sheds.

Other Relevant Program Context.

On each customer billing statement, investor-owned gas and electric utilities regulated by the Utilities and Transportation Commission must provide information on customers' current month energy usage and a comparison against the energy usage in the same month of the previous year. The Department of Ecology (Department) is the state agency responsible for administering certain air and greenhouse gas emission regulations.

The Pollution Control Hearings Board (PCHB) is an appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties made by the Department and several other state agencies. Parties aggrieved by a PCHB decision may obtain subsequent judicial review.

The Public Records Act requires state and local government agencies to make all public records available for public inspection and copying, unless the records fall within a statutory exemption.

Summary of Bill:

Utility Requirements Related to Benchmarking.

Electric and gas utilities that serve over 25,000 customers must maintain energy use information for all buildings to which they provide service. Every month, these utilities must also update and maintain energy use data dating back to January 1, 2016 for most types of buildings or campuses of buildings that exceed 10,000 square feet of temperature-controlled space (covered buildings). The following types of buildings, as defined in the State Building Code, are not covered buildings:

- residential buildings, except for "R-2" buildings with at least five dwelling units;
- factory buildings; and
- utility and miscellaneous buildings.

Beginning January 1, 2017, utilities must automatically upload the energy use data of covered buildings into Portfolio Manager. If a covered building owner requests the building's energy use

data, the utility must provide it to the owner, but must aggregate the information if there are multiple accounts associated with the building.

Building Owner Requirements Related to Benchmarking.

Covered building owners must establish a Portfolio Manager account. Covered building owners must also request energy consumption data for their buildings, if serviced by a utility serving over 25,000 customers. Covered building owners must disclose the previous calendar year's energy use data and benchmark performance ratings for their buildings to prospective lenders, purchasers, and renters. By October 1, 2016 and April 1 of each subsequent year, building owners must transfer building energy use and benchmarking information to the Department via a sharing instrument in Portfolio Manager.

Department of Ecology Benchmarking Program Implementation.

The Department is responsible for determining whether covered buildings have met benchmarking and energy use disclosure requirement, and for enforcing disclosure requirements. The Department may issue a notice of violation to a building owner that does not comply with benchmarking and disclosure requirements. If the building owner does not come into compliance within 90 days, the Department may issue a penalty of up to \$500, which may increase to cumulative penalties of \$1,000 after 180 days, \$2,000 after 270 days, and \$4,000 after one year. The Department may issue an additional penalty of up to \$500 if the building owner has previously been served with a notice of violation. Penalties are paid into the State General Fund, and are appealable to the PCHB. The Department may not impose a penalty if it determines that the building owner did not comply with benchmarking and disclosure requirements because a utility did not provide required information.

Penalty provisions are phased-in to apply to buildings of different sizes as follows:

- Beginning with calendar year 2016 data, penalties may be issued for buildings over 75,000 square feet.
- Beginning with calendar year 2017 data, penalties may be issued for buildings over 50,000 square feet.
- Beginning with calendar year 2018 data, penalties may be issued for buildings over 20,000 square feet.
- Beginning with calendar year 2020 data, penalties may be issued for buildings over 10,000 square feet.

Using information submitted by building owners, the Department must make available information on building energy use across different cities, counties, and utilities. Until 2020, the Department must aggregate energy use information prior to disclosure. Individual, unaggregated building energy use information is exempt from disclosure under the Public Records Act.

The Department may designate a nonprofit organization to assist in energy-benchmarking program implementation and may contract to provide outreach and technical assistance to building owners with higher-than-average energy use or inefficient performance.

Other public entities are allowed to adopt different or additional energy use disclosure requirements than those required by state law.

Utility Billing Statement Requirements.

Electric and gas utility billing statements must include information about customers' electricity or gas use. This information must include the amount of electricity or gas consumed and associated costs for:

- the current billing period;
- the previous eleven billing periods; and
- the total over the last twelve billing periods.

Billing statements must also include a chart, statement, or graph that compares a customer's energy use and cost against that of similar customers. Utilities must provide this energy use information to building owners, if they request to receive it.

Appropriation: None.

Fiscal Note: Requested on January 16, 2015.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 9, which takes effect June 30, 2019 and sections 11 through 14, which take effect July 1, 2016.