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**Technology & Economic Development  
Committee**

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**HB 1289**

**Brief Description:** Modifying the procedure for adoption and amendment of the Washington state energy code.

**Sponsors:** Representatives Buys, Takko, Short and Blake.

**Brief Summary of Bill**

- Establishes that the energy code for residential and non-residential buildings is the 2012 Washington State Energy Code (Code), as published by the International Code Council, Inc., and as amended by the State Building Council (Council).
- Specifies that amendments to the Code for non-residential buildings may be adopted if they increase energy efficiency and promote a competitive business climate based on economic, technical, and process factors.
- Specifies that amendments to the Code for residential buildings may be adopted if they increase energy efficiency, promote a competitive business climate, and are technically feasible, commercially available, and cost-effective to building owners and tenants.
- Requires the Council to adopt rules that are consistent with Chapter 19.85 RCW, the Regulatory Fairness Act.

**Hearing Date:** 2/3/15

**Staff:** Nikkole Hughes (786-7156).

**Background:**

State Energy Code.

The Washington 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

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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. Unless otherwise amended by rule, the Code must reflect the 2006 edition.

#### International Energy Conservation Code.

The International Energy Conservation Code (IECC) is published by the International Code Council, Inc., a non-profit organization that develops comprehensive and coordinated national model construction codes. The IECC was last updated in 2012 and is reviewed and amended every 3 years. The 2012 IECC contains separate provisions for residential and non-residential buildings.

#### Adoption and Amendment Requirements for the State Energy Code.

The Code was last amended in 2013, when the Council adopted the 2012 IECC for both residential and non-residential buildings as the State Energy Code. Adoption of the 2012 IECC was recommended by the Legislature in 2010.

The Council reviews, updates, and adopts new model state building codes every 3 years. The Council must adopt state energy codes that require buildings constructed from 2013 through 2031 to move incrementally toward a 70 percent reduction in energy use by 2031. The Code must consider regional climatic conditions. The Council may amend the Code by rule if the amendments increase energy efficiency in the affected buildings.

#### Rulemaking under the Administrative Procedure Act.

The Administrative Procedure Act (APA) details requirements that must be satisfied in order for an agency to adopt a significant legislative rule. A significant legislative rule is one that:

- adopts substantive provisions of law, the violation of which subjects the violator to a penalty or sanction;
- establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or
- adopts a new policy or regulatory program, or makes significant amendments to a policy or regulatory program.

Significant legislative rules do not include emergency rules, procedural rules, interpretative rules, or rules adopted through expedited rulemaking. Examples of the requirements for adoption of a significant legislative rule include a cost-benefit analysis, a determination of whether the rules impose more stringent requirements on private entities than on public entities, and a determination of whether the rule differs from federal regulations and law.

#### The Regulatory Fairness Act and Small Business Economic Impact Statements.

Under the Regulatory Fairness Act (RFA), an agency must develop a small business economic impact statement (SBEIS) if a rule it is adopting under the APA will impose more than minor costs on businesses in an industry, or if an agency is requested to do so by the Joint Administrative Rules Review Committee of the Legislature.

If an SBEIS shows that a rule will have a disproportionate impact on small businesses, the agency must, where legal and feasible, reduce the costs imposed by the rule on small businesses.

The SBEIS must list the steps taken to reduce the costs on small businesses or a reasonable justification for not doing so.

The RFA defines "small business" as an business entity, including a sole proprietorship, corporation, partnership, or other legal entity that is owned and operated independently from all other businesses and has 50 or fewer employees.

### **Summary of Bill:**

#### State Energy Code.

The minimum energy code for residential and non-residential buildings is the 2012 Washington State Energy Code (Code), as published by the International Code Council, Inc., and as amended by the State Building Code Council (Council).

#### Adoption and Amendment Requirements for the State Energy Code.

Amendments to the Code for non-residential buildings may be adopted by the Council if they maintain and promote a competitive business climate based on an evaluation of economic, technical, and process factors. Any new measures, standards, or requirements adopted as amendments to the Code must be based upon an analysis of and comments from owners and tenants on whether amendments are technically feasible, commercially available, and cost-effective.

Amendments to the Code for residential-buildings may be adopted if the amendments:

- increase the energy efficiency of typical, newly constructed residential buildings;
- maintain and promote a competitive business climate; and
- are technically feasible, commercially available, and cost-effective to owners and tenants.

Beginning with the development of the 2018 International Energy Conservation Code (IECC), the Council must endeavor to reduce the number of state amendments made to the IECC, as adopted by the Council. The Council must advocate for and submit all proposed state amendments to the International Code Council during the IECC development process. The Council must consider the documentation and results of the IECC development process during the rule-making process for the adoption of the new IECC to the Code.

Any person may propose an amendment to the Code after the Council files a statement of inquiry in accordance with the Administrative Procedure Act (APA). The proponent of a proposed amendment must demonstrate a cost-benefit analysis and indicate the amount of energy efficiency gained due to the proposed amendment.

The Council, prior to filing notice of a proposed rule under the APA, must evaluate all proposed amendments for their technical feasibility and cost-effectiveness. Any proposal submitted that does not include the requisite cost and energy efficiency information may not be considered by the Council.

#### Rulemaking under the Administrative Procedure Act.

Amendments to the Code, adopted by rule, for either residential or non-residential buildings constitute significant legislative rules.

Rulemaking Consistent with the Regulatory Fairness Act.

The Council must adopt rules consistent with the Regulatory Fairness Act (RFA). The Council must evaluate impacts of adopting the Code on small businesses and reduce the costs imposed on small businesses.

**Appropriation:** None.

**Fiscal Note:** Requested on January 28, 2015.

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