
Environment & Energy Committee

HB 1084

Brief Description: Reducing statewide greenhouse gas emissions by achieving greater decarbonization of residential and commercial buildings.

Sponsors: Representatives Ramel, Slatter, Johnson, J., Duerr, Fitzgibbon, Dolan, Chopp, Wylie, Bateman, Ramos, Berry, Ortiz-Self, Gregerson, Goodman, Ryu, Valdez, Callan, Kloba, Ormsby, Stonier, Fey, Macri, Peterson, Pollet, Bergquist and Harris-Talley; by request of Office of the Governor.

Brief Summary of Bill

- Requires residential and nonresidential construction permitted under the 2027 State Energy Code to achieve at least a 70 percent reduction in annual net energy consumption and eliminate on-site fossil fuel combustion for space heating and water heating.
- Requires the Department of Commerce (Commerce) to adopt a state energy management and benchmarking requirement for tier 2 and tier 3 covered commercial buildings by November 1, 2021.
- Prohibits a natural gas utility from offering new service to any customer located outside of the area authorized in its approved certificate of public convenience and necessity as of July 1, 2021.
- Establishes a Statewide Clean Heat Standard for the purpose of limiting the expansion of the natural gas system for residential and commercial space and water heating, and advancing the use of high-efficiency electric equipment, the production and distribution of clean fuels, and the safe and equitable transition of the natural gas system.
- Requires the Utilities and Transportation Commission (UTC) to establish a uniform climate protection surcharge for natural gas utilities by January 1, 2023.

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

- Codifies the requirement for natural gas utilities regulated by the UTC to develop integrated resource plans.
- Authorizes the governing body of a municipal electric utility or public utility district to adopt a beneficial electrification plan.
- Establishes a Heat Pump and Electrification Program within Commerce.

Hearing Date: 1/22/21

Staff: Nikkole Hughes (786-7156).

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 maximum and minimum level of energy efficiency for residential buildings and the minimum level of energy efficiency for nonresidential buildings. The State Building Code Council (Council) maintains the Code. Unless otherwise amended by rule, the Code must reflect the 2006 edition.

The Code for residential structures preempts the residential energy code of each city, town, and county in Washington, unless the local jurisdiction's residential energy code exceeds the requirements of the Code and was adopted before March 1, 1990.

The Council reviews, updates, and adopts model state building codes every three years. The Code must be designed to:

- construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas (GHG) emission homes and buildings by the year 2031;
- 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
- allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

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.

Energy Benchmarking Requirements.

An electric or gas utility that serves more than 25,000 customers in the state must maintain records of the energy consumption data of all nonresidential and certain public agency buildings to which the utility provides service. This data must be maintained for at least the most recent 12 months in a format that is compatible with the United States Environmental Protection Agency's (US EPA) Energy Star 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.

Upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, the utility must upload the energy consumption data for the accounts specified by the owner or operator for a building to the US EPA Energy Star Portfolio Manager in a form that does not disclose personally identifying information.

An electric or gas utility that does not serve more than 25,000 customers in the state must either offer the upload service to the US EPA Energy Star Portfolio Manager or provide customers who are building owners of covered commercial buildings with consumption data in an electronic document formatted for direct upload to the US EPA Energy Star Portfolio Manager. Within 60 days of receiving a written or electronic request and authorization of a building owner, the utility must provide the building owner with monthly energy consumption as required to benchmark the specified building.

"Covered commercial building" means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area.

For any covered commercial building with three or more tenants, an electric or gas utility must, upon request of the building owner, provide the building owner with aggregated monthly energy consumption data without requiring prior consent from tenants.

Each electric or gas utility must ensure that all data provided in compliance with energy benchmarking requirements does not contain personally identifiable information or customer-specific billing information about tenants of a covered commercial building.

Department of Commerce.

The Department of Commerce (Commerce) must develop and implement a strategic plan for enhancing energy efficiency in and reducing GHG emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the Code in achieving the goal of building zero fossil-fuel GHG emission homes and buildings by the year 2031. The strategic plan must identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future Code updates and through complementary policies.

Utilities and Transportation Commission.

The Utilities and Transportation Commission (UTC) regulates the rates, services, and practices of investor-owned utilities and transportation companies, including electrical companies, natural gas companies, and telecommunications companies. The UTC is required to ensure that rates charged by these companies are "fair, just, and reasonable."

Certificates of Public Convenience and Necessity.

A natural gas utility may not operate a gas plant for hire in the state without having first obtained from the UTC a certificate declaring that public convenience and necessity requires or will require such operation and setting forth the area or areas within which service is to be rendered.

"Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other types of gas, for light, heat, or power.

Integrated Resource Planning.

Under rules adopted by the UTC, each natural gas utility regulated by the UTC must develop an integrated resource plan (IRP) describing the mix of natural gas supply and conservation designated to meet current and future needs at the lowest reasonable cost to the utility and its ratepayers.

Natural Gas Conservation Standard and Renewable Natural Gas Programs.

Each natural gas utility must identify and acquire all conservation measures that are available and cost-effective. Each company must establish an acquisition target every two years and must demonstrate that the target will result in the acquisition of all resources identified as available and cost-effective. The cost-effectiveness analysis must include the societal costs of GHG emissions. The targets must be based on a conservation potential assessment prepared by an independent third party and approved by the UTC. Conservation targets must be approved by order of the UTC. The initial conservation target must take effect by 2022.

A natural gas utility may propose a renewable natural gas program under which the company would supply renewable natural gas for a portion of the natural gas sold or delivered to its retail customers. The renewable natural gas program is subject to review and approval by the UTC. The customer charge for a renewable natural gas program may not exceed 5 percent of the amount charged to retail customers for natural gas. The environmental attributes of renewable natural gas must be retired using procedures established by the UTC and may not be used for any other purpose. The UTC must approve procedures for banking and transfer of environmental attributes.

Each natural gas utility must offer by tariff a voluntary renewable natural gas service available to all customers to replace any portion of the natural gas that would otherwise be provided by the

natural gas utility. The tariff may provide reasonable limits on participation based on the availability of renewable natural gas and may use environmental attributes of renewable natural gas combined with natural gas. The voluntary renewable natural gas service must include delivery to, or the retirement on behalf of, the customer of any environmental attributes associated with the renewable natural gas.

"Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

Societal Costs of Greenhouse Gas Emissions.

For the Natural Gas Conservation Standard, the cost of GHG emissions resulting from the use of natural gas, including the effect of emissions occurring in the gathering, transmission, and distribution of natural gas to the end user, is equal to the cost per metric ton of carbon dioxide emissions, using the 2.5 percent discount rate, listed in Table 2, Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases of the United States Government, August 2016. The UTC must adjust the cost to reflect the effect of inflation.

The UTC must monitor the GHG emissions resulting from natural gas and renewable natural gas delivered by each natural gas utility to its customers, relative to the proportionate share of the state's GHG emissions reduction goal. The UTC must report to the Governor by January 1, 2020, and every three years thereafter, an assessment of whether the gas companies are on track to meet a proportionate share of the state's GHG emission reduction goal.

Municipal Electric Utilities and Public Utility Districts.

Municipalities are authorized to operate as utilities and set the rates and charges for the provision of water, sewer, electric power, heating fuel, solid waste removal, and transportation facility services. Public utility districts (PUDs) are a type of special-purpose district authorized for the purpose of generating and distributing electricity, providing water and sewer services, and providing telecommunications services. A PUD may operate on a countywide basis or may encompass a small jurisdiction. A PUD is governed by a board of either three or five elected commissioners.

Municipal electric utilities are authorized to provide electric service both within and outside of their jurisdictional boundaries. Some municipal electric utilities provide electricity to adjoining areas, both to incorporated cities and to unincorporated areas under county authority.

A PUD may build and operate generation, distribution, and transmission facilities, both within and outside the county boundary, to furnish electricity to the county's inhabitants or other persons, provided that such activity is reasonably related to the PUD's core purpose of serving its

own customers. If a PUD wants to build a utility plant inside a city or town, the city's governing body must consent to the service and approve the plan for construction.

Electrification.

The governing body of a municipal electric utility or a PUD may adopt an electrification of transportation plan that, at a minimum, establishes a finding that utility outreach and investment in the electrification of transportation infrastructure does not increase net costs to ratepayers in excess of 0.25 percent.

Upon making a net cost determination, a municipal electric utility or a PUD may offer incentive programs in transportation electrification for its customers, including the promotion of electric vehicle adoption and advertising programs that promote the utility's services, incentives, or rebates.

Summary of Bill:

State Energy Code.

Residential and nonresidential construction permitted under the 2027 State Energy Code (Code) must achieve at least a 70 percent reduction in annual net energy consumption and eliminate on-site fossil fuel combustion for space heating and water heating, using the adopted 2006 Code as a baseline. The State Building Code Council (Council) must adopt Codes that incrementally move towards achieving the 2027 Code targets.

Local governments may adopt more stringent energy codes for residential buildings than the minimum standards established in the state Code.

The Code must be designed to:

- construct increasingly low-emission energy efficient homes and buildings and achieve construction of zero fossil-fuel greenhouse gas (GHG) emission homes and buildings by the year 2030;
- 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
- require new buildings to provide space heating and water heating equipment that minimizes direct and indirect GHG emissions.

Energy Management and Benchmarking Requirements.

By November 1, 2021, the Department of Commerce (Commerce) must adopt by rule a state energy management and benchmarking requirement for tier 2 and tier 3 covered commercial buildings. In establishing the energy management and benchmarking requirement, Commerce must adopt requirements for building owner implementation based on sections 5, 6, and 7 of

ANSI/ASHRAE/IES standard 100-2018, including reporting and administrative procedures.

"Tier 2 covered commercial building" means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 25,000 gross square feet, excluding the parking garage area, but does not exceed 50,000 gross square feet.

"Tier 3 covered commercial building" means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 10,000 gross square feet, excluding the parking garage area, but does not exceed 25,000 gross square feet.

By July 1, 2023, Commerce must provide the owners of tier 2 covered commercial buildings with notification of requirements. By July 1, 2024, Commerce must provide the owners of tier 3 covered commercial buildings with notification of requirements.

Owners of tier 2 covered commercial buildings must submit reports of compliance by July 1, 2025, and every five years thereafter. Owners of tier 3 covered commercial buildings must submit reports of compliance by July 1, 2026, and every five years thereafter.

By July 1, 2027, Commerce must evaluate benchmarking data to determine energy use averages by building type. Commerce must submit a report to the Legislature and the Governor by October 1, 2027, with recommendations for building performance standards for tier 2 and tier 3 covered commercial buildings. Commerce is authorized to adopt rules for inclusion of tier 2 and tier 3 covered commercial buildings in the State Energy Performance Standard for commercial buildings.

Certificates of Public Convenience and Necessity.

A natural gas utility may not offer new service to any customer located outside of the area authorized in its approved certificate of public convenience and necessity as of July 1, 2021.

Statewide Clean Heat Standard.

A Statewide Clean Heat Standard (Clean Heat Standard) is established for the purpose of limiting the expansion of the natural gas system for residential and commercial space and water heating, and advancing the use of high-efficiency electric equipment, the production and distribution of clean fuels, and the safe and equitable transition of the natural gas system.

Utilities must ensure an equitable transition of the gas system by:

- ensuring that the transition does not disproportionately impact low-income households or overburdened communities;
- ensuring the equitable distribution of energy and nonenergy benefits of utility programs and infrastructure to overburdened communities and vulnerable populations;
- including provisions for equity and opportunity improvement; and
- providing for the just transition of affected workers through layoff avoidance strategies.

Beginning July 1, 2021, natural gas utility tariff provisions for line extensions for residential and commercial gas service must recover the full cost of the extension from the new customer requesting service.

By January 1, 2022, and every four years thereafter, each natural gas utility must develop and submit to the Utilities and Transportation Commission (UTC) a transition implementation plan to achieve a reduction in GHG emissions, consistent with its proportional obligation under the state's GHG emission limits, resulting from combustion of natural gas sold or delivered by the company. A transition implementation plan must evaluate and compare multiple strategies to identify the lowest reasonable cost combination of strategies to achieve the reductions.

Prior to adopting a transition implementation plan, the natural gas utility must request the input of any electric utility serving customers in the natural gas utility's service area on the development of the plan.

The UTC, after a hearing, must by order approve, reject, or approve with conditions a natural gas utility's transition implementation plan. The UTC may periodically adjust or expedite timelines if it can be demonstrated that the emission reduction targets or timelines can be achieved in a manner consistent with the following:

- maintaining and protecting the safety and reliable operation of the natural gas system; and
- planning to meet the emission reduction targets at the lowest reasonable cost.

The UTC, in coordination with Commerce, must ensure that the transition away from fossil natural gas does not disproportionately impact low-income households.

Uniform Climate Protection Surcharge.

By January 1, 2023, the UTC must establish a uniform climate protection surcharge at an amount not to exceed the social cost of GHG emissions established for the purposes of implementing the Natural Gas Conservation Standard.

Each natural gas utility must implement by tariff the climate protection surcharge applied on a per-therm basis to natural gas delivered to its customers. Sales of renewable natural gas, zero-emission synthetic gas, and renewable hydrogen are exempt from the climate protection surcharge. The funds collected from the climate protection surcharge must be used by each natural gas utility for the following purposes, as approved by the UTC:

- implementing programs approved in its transition implementation plan;
- providing weatherization services, bill credits, or rate assistance to low-income customers, including assistance to offset the impacts of the climate protection surcharge on low-income customers;
- programs to avoid worker dislocation, including ensuring the use of qualified workers in implementing the transition implementation plan, and training programs for workers in the fossil natural gas industry to support skill development;

- developing and distributing lower-carbon fuels including, but not limited to, renewable natural gas distributed under tariff; and
- ensuring that the transition implementation plan does not disproportionately impact vulnerable populations or overburdened communities.

Projects or activities funded from the climate protection surcharge must meet high labor standards and maximize access to economic benefits from such projects for local workers and diverse businesses.

Integrated Resource Planning.

The requirement for natural gas utilities regulated by the UTC to develop integrated resource plans (IRP) is codified. At a minimum, a natural gas utility's IRP must include:

- a range of forecasts of future natural gas demand in firm and interruptible markets for each customer class that examine the effect of economic forces on the consumption of natural gas and that address changes in the number, type, and efficiency of natural gas end uses;
- an assessment of commercially available conservation, including load management, as well as an assessment of currently employed and new policies and programs needed to obtain the conservation improvements;
- an assessment of conventional and commercially available nonconventional gas supplies;
- an assessment of the impact of the electrification of the building sector;
- an assessment of opportunities for using company-owned or contracted storage;
- an assessment of pipeline transmission capability and reliability;
- a comparative evaluation of the cost of natural gas purchasing strategies, electrification, storage options, delivery resources, and improvements in conservation using a consistent method to calculate cost-effectiveness;
- the integration of demand forecasts and resource evaluations into a 10-year, long-range plan;
- a short-term plan outlining the specific actions to be taken by the utility in implementing the long-range integrated resource plan during each of the three years following plan submission;
- a report on the utility's progress toward implementing the recommendations contained in its previously filed plan;
- an assessment of the economic, public health, and environmental conditions within the utility's service territory;
- an assessment of the energy and nonenergy benefits and burdens associated with the utility's infrastructure and programs; and
- an evaluation of disparities in current conditions for overburdened communities and vulnerable populations.

Beginning September 1, 2021, each natural gas utility must submit a plan within two years after the date on which the previous plan was filed with the UTC. The UTC must consider the information reported in the IRP when the UTC evaluates the performance of the utility in rate and other proceedings.

Beneficial Electrification.

The governing body of a municipal electric utility or public utility district (PUD) may adopt a beneficial electrification plan that establishes a finding that utility outreach and investment in the electrification of homes and buildings will provide net benefits to the utility. Prior to adopting a beneficial electrification plan, the governing body must request the input of any natural gas utility serving customers in the electric utility's service area on the development of the plan.

An adopted beneficial electrification plan must identify options and program schedules for the electrification of various energy end-uses or other energy sources. In adopting the plan, the governing body must determine that the sum of the benefits of an electrification option equals or exceeds the sum of its costs. As part of this determination, the governing body may differentiate the level of benefits and costs accrued to highly impacted communities and vulnerable populations in the electric utility's service area.

Nothing in the authority to develop beneficial electrification plans limits the existing authority of a municipal electric utility or PUD to offer incentives and other programs to accelerate the electrification of homes and buildings for its customers if such electrification is in the direct economic interest of the electric utility.

"Beneficial electrification" means electrification of an energy end-use in a way that provides a net benefit to the utility.

Heat Pump and Electrification Program.

A Heat Pump and Electrification Program (HPE Program) is established within Commerce. The purpose of the HPE Program is to support job creation and workforce development through the transition of residential and commercial buildings away from fossil fuels by providing incentives, education, and outreach resources for the installation of high-efficiency electric heat pumps and other electric equipment.

Among the required components of the HPE Program is the development and implementation of an incentive program for residential and commercial building owners that convert from a fossil fuel space or water heating system to a high-efficiency electric heat pump. The incentives must be limited to projects installed by certified installers. In developing the incentive, Commerce may consider higher payments for those with low or moderate incomes, residents or owners of rental properties, and other populations who may be overburdened.

Commerce is authorized to contract with a nonprofit trade association, regional market transformation organization, or community organization to implement the HPE Program.

Short Title.

This act may be known and cited as the Healthy Homes and Clean Buildings Act.

Severability.

If any provision of the act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Appropriation: None.

Fiscal Note: Available.

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