

# SENATE BILL REPORT

## ESSB 6291

---

---

As Passed Senate, February 7, 2024

**Title:** An act relating to streamlining the state building code council operating procedures by establishing criteria for statewide amendments to the state building code.

**Brief Description:** Streamlining the state building code council operating procedures by establishing criteria for statewide amendments to the state building code.

**Sponsors:** Senate Committee on State Government & Elections (originally sponsored by Senators Wilson, L., Lovick, Dozier and Short).

**Brief History:**

**Committee Activity:** State Government & Elections: 1/26/24, 1/30/24 [DPS, DNP].

**Floor Activity:** Passed Senate: 2/7/24, 47-2.

### Brief Summary of Engrossed First Substitute Bill

- Establishes a timeline for adoption, amendment, and repeal of statewide building codes.
- Details criteria for consideration of amendments outside the three-year adoption cycle.
- Outlines protocol for filling vacant council positions.
- Requires the council to contract with an independent, third-party entity to perform comparative economic and energy analyses of a proposed Washington energy code and prior versions of the Washington energy code.
- Sets forth criteria and duties for technical advisory groups.

---

### SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

**Majority Report:** That Substitute Senate Bill No. 6291 be substituted therefor, and the

---

*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.*

substitute bill do pass.

Signed by Senators Hunt, Chair; Valdez, Vice Chair; Wilson, J., Ranking Member; Dozier, Fortunato and Kuderer.

**Minority Report:** Do not pass.

Signed by Senator Hasegawa.

**Staff:** Danielle Creech (786-7412)

**Background:** State Building Code Council. The state building code council (SBCC) is responsible for adopting and updating the state building code, which provides minimum construction, mechanical, fire, plumbing, and energy code requirements for buildings in the state of Washington. The code consists of certain model codes, such as the International Building Code (IBC) as adopted and amended by the SBCC for use in Washington. These codes help to ensure buildings and facilities constructed in the state are safe, accessible, and healthy for building occupants, and energy efficient. Counties and cities may amend the code as it applies within local government to impose requirements that may exceed those provided for in the code, but cannot, with limited exceptions, lower the requirements.

Code Amendment and Adoption. Currently, the SBCC must regularly review updated versions of model codes and amend the code as deemed appropriate by the SBCC. The model code is amended and adopted on a three year cycle, with opportunities for off-cycle rulemaking due to emergencies or as a result of legislative directives. Individuals may also petition the SBCC requesting the adoption, amendment, or repeal of codes. The SBCC must adhere to the requirements of the open public meetings act when developing and amending the code, and may include technical advisory committee meetings for review of each code. All council decisions relating to code requires approval by a majority of the members of the council. All decisions to adopt or amend model codes must be made prior to December 1st of any year and cannot take effect before the end of the regular legislative session in the next year.

Technical Advisory Groups. The SBCC must convene a technical advisory group (TAG), which includes experts in design and construction, to recommend modifications and limitations to the IBC. The SBCC may also appoint technical advisory committees to review emergency amendments and petitions.

**Summary of Engrossed First Substitute Bill:** State Building Code Council. Each of the 15 councilmembers appointed by the Governor shall hold office until the appointment of a successor, not to exceed 90 days after the term has expired. If no appointment is made in that time, the position becomes vacant. Vacant positions are not counted for the purposes of quorums, calling special meetings, or voting thresholds.

Within three days after a councilmember's term has expired, the SBCC must post a message on the council website informing the stakeholders and members of the public that there is an

open council position. The trade associations must provide nominations no later than 30 days after a council position is open. The Governor must appoint a qualified replacement within 60 days after the nominations are received.

Within one year of employment or appointment, employees and members of the state building code council must receive training on ethics in public service.

Code Amendment and Adoption. The state building code council must adopt, amend, or repeal statewide codes on a three-year state building code adoption cycle, following the adoption cycle of the model codes. The council must review the most recent editions of the model codes and take action on adoption no later than 30 months after the date of publication of each model code.

The council may initiate and implement an interim code adoption cycle for all Washington State building codes if a majority of its voting membership determines it is necessary for the correction of errors and omissions, or eliminates obsolete, conflicting, redundant, or unnecessary regulations. An interim code adoption cycle shall not be performed earlier than 12 months nor later than 18 months from the effective date of the statewide codes adopted during the three-year cycle. Any person or entity may submit a petition in writing for substantive statewide amendments within that time frame. The petition must comply with requirements approved by the council. The council must approve the referral of a statewide amendment to a standing committee or TAG. Proposals which do not meet criteria may be considered in a future three-year adoption cycle.

Substantive changes may only be adopted on the three-year state building code adoption cycle, with exceptions for amendments which:

- are deemed necessary for the preservation of the public health, safety, or general welfare;
- clarify the intent or application of the code;
- are necessary for consistency with state or federal laws and regulations;
- are directed by the Legislature;
- correct errors and omissions; or
- eliminate an obsolete or conflicting regulation.

Petitions for emergency statewide amendments to the building code may be submitted, considered, and adopted at any time. The council may not act on a petition at the meeting when the petition is introduced, and the council may only accept a petition when it provides a concise statement of the reasons for finding that an emergency basis exists. The council approves a finding by a two-thirds vote of voting members. Approval of emergency amendments requires a majority vote of voting members.

Technical Advisory Groups. The council may appoint TAGs to review petitions for statewide amendments. TAGs may include one voting councilmember and must consist of subject matter experts as designated by the council. Members may be removed by the

council if the member no longer meets the necessary qualifications. Three consecutive absences of a TAG member are grounds for the council to designate the member's status as ex officio until a reappointment is made. TAG members must receive training on ethics in public service within three months of appointment. TAG members and the industry or stakeholder groups they represent must be posted on the SBCC website. Any person who wishes to be appointed to serve on a TAG must submit an application to the council. Applications must be approved or denied within 30 days. An amendment petition referred to a TAG must be approved by a majority of the TAG members to be taken up for consideration by the council.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This is a bipartisan support bill. Both sides worked together to create something that stakeholders support. This aims to create transparency and consistency to a process that can be frustrating and chaotic. The committee often finds itself operating outside the bounds of APA so this should provide a solution to that. Building codes can be confusing and this will help to ensure our contractors understand the building code council process. As we have been going through the process with the state building code council, smaller contractors and the energy code, tracking and following new codes is incredibly difficult and time consuming. This brings some consistency back into this timeline and will allow for more participation by experts.

CON: The intent of the bill is appreciated but there is concern that as drafted this may inhibit the council's ability to adopt substantive changes to the building code. The purpose of having a council made up of subject matter experts is so they can use their professional judgement to make changes to the code to accommodate changes in technology, the market, and consumer preferences—not to simply implement code changes under the narrow circumstances identified in the bill. There is also concern that this ties the council's hands and this could prevent necessary progress on energy efficiency, demand response, and electric ready construction.

OTHER: The building code council has not formally taken a position on the bill but did provide technical guidance and advising to the prime sponsor of the bill.

**Persons Testifying:** PRO: Senator Lynda Wilson, Prime Sponsor; Andrea Smith, BIAW; Bill Stauffacher; Josie Cummings, Avista; Carolyn Logue, NW Hearth, Patio & Barbecue Association/WA Air Conditioning Contractors Assoc..

CON: Lauren McCloy, NW Energy Coalition.

OTHER: Stoyan Bumbalov, State Building Code Council.

**Persons Signed In To Testify But Not Testifying:** No one.