

SENATE BILL REPORT

SB 5190

As Reported by Senate Committee On:
Early Learning & K-12 Education, January 23, 2025

Title: An act relating to allowing school districts to request extensions to state energy performance standard deadlines for K-12 school buildings.

Brief Description: Allowing school districts to request extensions to state energy performance standard deadlines for K-12 school buildings. [**Revised for 1st Substitute:** Allowing schools and school districts to request extensions to state energy performance standard deadlines for K-12 school buildings.]

Sponsors: Senators Wellman, Conway, Shewmake, Bateman, Riccelli, Hasegawa, Saldaña, Lovick, Krishnadasan, Nobles, Salomon and Wilson, C..

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/16/25, 1/23/25 [DPS-ENET].

Brief Summary of First Substitute Bill

- Allows a school or school district to request a ten-year extension to a K-12 school building's Clean Buildings Performance Standard compliance date.
- Prohibits the Department of Commerce from imposing an administrative penalty upon a school or school district that submits a request to extend.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5190 be substituted therefor, and the substitute bill do pass and be referred to Committee on Environment, Energy & Technology.

Signed by Senators Wellman, Chair; Nobles, Vice Chair, K-12; Wilson, C., Vice Chair, Early Learning; Harris, Ranking Member; Cortes, Dozier, Hansen, Krishnadasan and

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.

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Staff: Alex Fairfortune (786-7416)

Background: Clean Buildings Performance Standard. In 2019 the Legislature, through the passage of E3SHB 1257, directed the Department of Commerce to establish a state energy performance standard for covered commercial buildings. This is referred to as the Clean Buildings Performance Standard (CBPS).

Under the CBPS, energy performance standards, reporting requirements, and compliance dates differ based on a building's tier, which is determined by its square footage. Tier 1 buildings exceed 50,000 square feet, while Tier 2 buildings are between 20,000 and 50,000 square feet.

Reporting Requirements. The following reporting standards are required for both Tier 1 and Tier 2 buildings:

- benchmark the building by measuring and tracking energy use in the building over time;
- implement an operations and maintenance program; and
- create an energy management plan.

Energy Performance Requirements. The following energy performance standards are only required for Tier 1 buildings:

- meet an average energy use intensity target (EUI_t) using a site-based average for similar building types; or
- utilize an investment criteria pathway that includes performing an energy audit and implementing all cost-effective efficiency measures.

Deadlines. The timeframe by which a building must meet these standards is determined by the building square footage, as follows:

- Tier 1
 1. June 1, 2026: Buildings greater than 220,000 square feet.
 2. June 1, 2027: Buildings between 90,001 and 220,000 square feet.
 3. June 1, 2028: Buildings between 50,000 and 90,000 square feet.
- Tier 2
 1. July 1, 2027: Buildings between 20,000 and 50,000 square feet.

Penalties. Compliance dates recur every five years and penalties may be assessed if standards are not met by the compliance date. Penalty types are divided into three categories.

Successful Mitigation Plan. This penalty system is used when an applicant has submitted a noncompliance mitigation plan due to being out of compliance on their compliance date, but is able to successfully document completion at a later date. The penalty is \$1,500 plus \$0.20

per square foot per year.

Unsuccessful Mitigation Plan. This penalty system is used when an applicant has submitted a noncompliance mitigation plan but is unable to submit documentation demonstrating completion by the next compliance date. The penalty is \$5,000 plus \$1.00 per square foot per year, not to exceed a value of 18 months of accrued penalty.

Refuse to Comply. This penalty system is used when an applicant chooses to pay the fine rather than pursue compliance. The penalty is \$5,000 plus \$1.00 per square foot per year, not to exceed a value of 18 months of accrued penalty.

Summary of Bill (First Substitute): A public school, private school, or school district may request to extend a K-12 school building's compliance date beyond the scheduled date established in statute. A request to extend must be submitted to the Department of Commerce prior to a building's scheduled compliance date and include a noncompliance mitigation plan that demonstrates the school or school district is taking action to achieve compliance. Extensions are valid for ten years beyond the building's scheduled compliance date and may not be renewed.

The Department of Commerce may not impose an administrative penalty upon a school or school district that submits a request to extend a K-12 school building's compliance date.

The Department of Commerce must adopt rules necessary to grant extensions.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):

- Adds public schools and private schools as eligible entities that may request to extend a K-12 school building's compliance date under the Clean Buildings Performance Standard.

Appropriation: None.

Fiscal Note: Requested on January 10, 2025.

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: School districts cannot pass bonds to renew their school buildings so they will end up paying these fines. An extension is critical. The bill gives time and flexibility to sort out funding. A future extension may be needed if the Legislature doesn't provide funds to get buildings into compliance. Districts

are currently weighing the cost of compliance versus noncompliance, and could be paying 2 to 20 times as much in renovation costs when compared to the noncompliance penalties. One district has 70 buildings, 55 of which are Tier 1 buildings and 30 of which aren't in compliance. Issaquah School District would pay \$130M for renovations to reach compliance just in the first phase. It doesn't make sense to impose these penalties when school districts have so many other costs.

OTHER: Private schools should be able to request an extension in addition to school districts.

Persons Testifying: PRO: Senator Lisa Wellman, Prime Sponsor; Martin Turney, Issaquah School District; Mitch Denning, Alliance of Educational Associations; Michael Knaack, WA Assn of Maintenance and Operation Administrators; Devlin Piplic, WA Assn of Maintenance and Operation Administrators; Grace Yuan, Puget Sound School Coalition; Charlie Brown, Tacoma, Puyallup, Clover Park, Bethel and other School Districts.

OTHER: Suzie Hanson, Washington Federation of Independent Schools.

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