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**SENATE BILL 5190**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Wellman, Conway, Shewmake, Bateman, Riccelli, Hasegawa, Saldaña, and Lovick

Prefiled 01/08/25.

1 AN ACT Relating to allowing school districts to request  
2 extensions to state energy performance standard deadlines for K-12  
3 school buildings; and amending RCW 19.27A.210.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.27A.210 and 2023 c 291 s 3 are each amended to  
6 read as follows:

7 (1)(a) By November 1, 2020, the department must establish by rule  
8 a state energy performance standard for covered commercial buildings.

9 (b) In developing energy performance standards, the department  
10 shall seek to maximize reductions of greenhouse gas emissions from  
11 the building sector. The standard must include energy use intensity  
12 targets by building type and methods of conditional compliance that  
13 include an energy management plan, operations and maintenance  
14 program, energy efficiency audits, and investment in energy  
15 efficiency measures designed to meet the targets. The department  
16 shall use ANSI/ASHRAE/IES standard 100-2018 as an initial model for  
17 standard development. The department must update the standard by July  
18 1, 2029, and every five years thereafter. Prior to the adoption or  
19 update of the standard, the department must identify the sources of  
20 information it relied upon, including peer-reviewed science.

1 (2) In establishing the standard under subsection (1) of this  
2 section, the department:

3 (a) Must develop energy use intensity targets that are no greater  
4 than the average energy use intensity for the covered commercial  
5 building occupancy type with adjustments for unique energy using  
6 features. The department must also develop energy use intensity  
7 targets for additional property types eligible for incentives in RCW  
8 19.27A.220. The department must consider regional and local building  
9 energy utilization data, such as existing energy star benchmarking  
10 data, in establishing targets for the standard. Energy use intensity  
11 targets must be developed for two or more climate zones and be  
12 representative of energy use in a normal weather year;

13 (b) May consider building occupancy classifications from ANSI/  
14 ASHRAE/IES standard 100-2018 and the United States environmental  
15 protection agency's energy star portfolio manager when developing  
16 energy use intensity targets;

17 (c) May implement lower energy use intensity targets for more  
18 recently built covered commercial buildings based on the state energy  
19 code in place when the buildings were constructed;

20 (d) (i) Must adopt a conditional compliance method that ensures  
21 that covered commercial buildings that do not meet the specified  
22 energy use intensity targets are taking action to achieve reduction  
23 in energy use, including investment criteria for conditional  
24 compliance that ensure that energy efficiency measures identified by  
25 energy audits are implemented to achieve a covered commercial  
26 building's energy use intensity target. The investment criteria must  
27 require that a building owner adopt an implementation plan to meet  
28 the energy intensity target or implement an optimized bundle of  
29 energy efficiency measures that provides maximum energy savings  
30 without resulting in a savings-to-investment ratio of less than 1.0,  
31 except as exempted in (d) (ii) of this subsection. The implementation  
32 plan must be based on an investment grade energy audit and a life-  
33 cycle cost analysis that accounts for the period during which a  
34 bundle of measures will provide savings. The building owner's cost  
35 for implementing energy efficiency measures must reflect net cost,  
36 excluding any costs covered by utility or government grants. The  
37 implementation plan may exclude measures that do not pay for  
38 themselves over the useful life of the measure and measures excluded  
39 under (d) (ii) of this subsection. The implementation plan may include  
40 phased implementation such that the building owner is not required to

1 replace a system or equipment before the end of the system or  
2 equipment's useful life;

3 (ii) For those buildings or structures that are listed in the  
4 state or national register of historic places; designated as a  
5 historic property under local or state designation law or survey;  
6 certified as a contributing resource with a national register listed  
7 or locally designated historic district; or with an opinion or  
8 certification that the property is eligible to be listed on the  
9 national or state registers of historic places either individually or  
10 as a contributing building to a historic district by the state  
11 historic preservation officer or the keeper of the national register  
12 of historic places, no individual energy efficiency requirement need  
13 be met that would compromise the historical integrity of a building  
14 or part of a building;

15 (e) Must provide an alternative compliance pathway for an owner  
16 of a state campus district energy system, in accordance with RCW  
17 19.27A.260, and more broadly for the owner of any campus district  
18 energy system that is approved by the department to opt-in in  
19 accordance with RCW 19.27A.260(6);

20 (f) Must guarantee that the owner of a state campus district  
21 energy system is not required to implement more than one energy  
22 management plan and more than one operations and maintenance plan for  
23 the campus;

24 (g) Must guarantee that a state campus district energy system, as  
25 defined in RCW 19.27A.260, and all buildings connected to a state  
26 campus district energy system, are in compliance with any  
27 requirements for campus buildings to implement energy efficiency  
28 measures identified by an energy audit if:

29 (i) The energy audit demonstrates the energy savings from the  
30 state campus district energy system energy efficiency measures will  
31 be greater than the energy efficiency measures identified for the  
32 campus buildings; and

33 (ii) The state campus district energy system implements the  
34 energy efficiency measures.

35 (3) Based on records obtained from each county assessor and other  
36 available information sources, the department must create a database  
37 of covered commercial buildings and building owners required to  
38 comply with the standard established in accordance with this section.

39 (4) By July 1, 2021, the department must provide the owners of  
40 covered buildings with notification of compliance requirements.

1 (5) The department must develop a method for administering  
2 compliance reports from building owners.

3 (6) The department must provide a customer support program to  
4 building owners including, but not limited to, outreach and  
5 informational material, periodic training, phone and email support,  
6 and other technical assistance.

7 (7) The building owner of a covered commercial building must  
8 report the building owner's compliance with the standard to the  
9 department in accordance with the schedule established under  
10 subsection (8) of this section and every five years thereafter. For  
11 each reporting date, the building owner must submit documentation to  
12 demonstrate that:

13 (a) The weather normalized energy use intensity of the covered  
14 commercial building measured in the previous calendar year is less  
15 than or equal to the energy use intensity target; or

16 (b) The covered commercial building has received conditional  
17 compliance from the department based on energy efficiency actions  
18 prescribed by the standard; or

19 (c) The covered commercial building is exempt from the standard  
20 by demonstrating that the building meets one of the following  
21 criteria:

22 (i) The building did not have a certificate of occupancy or  
23 temporary certificate of occupancy for all 12 months of the calendar  
24 year prior to the building owner compliance schedule established  
25 under subsection (8) of this section;

26 (ii) The building did not have an average physical occupancy of  
27 at least 50 percent throughout the calendar year prior to the  
28 building owner compliance schedule established under subsection (8)  
29 of this section;

30 (iii) The sum of the building's gross floor area minus  
31 unconditioned and semiconditioned spaces, as defined in the  
32 Washington state energy code, is less than 50,000 square feet;

33 (iv) The primary use of the building is manufacturing or other  
34 industrial purposes, as defined under the following use designations  
35 of the international building code: (A) Factory group F; or (B) high  
36 hazard group H;

37 (v) The building is an agricultural structure; or

38 (vi) The building meets at least one of the following conditions  
39 of financial hardship: (A) The building had arrears of property taxes  
40 or water or wastewater charges that resulted in the building's

1 inclusion, within the prior two years, on a city's or county's annual  
2 tax lien sale list; (B) the building has a court appointed receiver  
3 in control of the asset due to financial distress; (C) the building  
4 is owned by a financial institution through default by a borrower;  
5 (D) the building has been acquired by a deed in lieu of foreclosure  
6 within the previous 24 months; (E) the building has a senior mortgage  
7 subject to a notice of default; or (F) other conditions of financial  
8 hardship identified by the department by rule.

9 (8) (a) A building owner of a covered commercial building must  
10 meet the following reporting schedule for complying with the standard  
11 established under this section:

12 ~~((a))~~ (i) For a building with more than 220,000 gross square  
13 feet, June 1, 2026;

14 ~~((b))~~ (ii) For a building with more than 90,000 gross square  
15 feet but less than 220,001 gross square feet, June 1, 2027; and

16 ~~((c))~~ (iii) For a building with more than 50,000 gross square  
17 feet but less than 90,001 square feet, June 1, 2028.

18 (b) A school district may request to extend a K-12 school  
19 building's compliance date beyond the scheduled date established in  
20 (a) of this subsection. A request to extend must be submitted to the  
21 department prior to a building's scheduled compliance date and  
22 include a noncompliance mitigation plan that demonstrates the school  
23 district is taking action to achieve compliance. An extension granted  
24 pursuant to this subsection is valid for 10 years beyond the  
25 building's scheduled compliance date and may not be renewed.

26 (9) (a) The department may issue a notice of violation to a  
27 building owner for noncompliance with the requirements of this  
28 section. A determination of noncompliance may be made for any of the  
29 following reasons:

30 (i) Failure to submit a compliance report in the form and manner  
31 prescribed by the department;

32 (ii) Failure to meet an energy use intensity target or failure to  
33 receive conditional compliance approval;

34 (iii) Failure to provide accurate reporting consistent with the  
35 requirements of the standard established under this section; and

36 (iv) Failure to provide a valid exemption certificate.

37 (b) In order to create consistency with the implementation of the  
38 standard and rules adopted under this section, the department must  
39 reply and cite the section of law, code, or standard in a notice of  
40 violation for noncompliance with the requirements of this section

1 when requested to do so by the building owner or the building owner's  
2 agent.

3 (10)(a) The department is authorized to impose an administrative  
4 penalty upon a building owner for failing to submit documentation  
5 demonstrating compliance with the requirements of this section. The  
6 penalty may not exceed an amount equal to \$5,000 plus an amount based  
7 on the duration of any continuing violation. The additional amount  
8 for a continuing violation may not exceed a daily amount equal to \$1  
9 per year per gross square foot of floor area. The department may by  
10 rule increase the maximum penalty rates to adjust for the effects of  
11 inflation.

12 (b) The department may not impose an administrative penalty upon  
13 a school district that submits a request to extend a K-12 school  
14 building's compliance date as authorized in subsection (8)(b) of this  
15 section.

16 (11) Administrative penalties collected under this section must  
17 be deposited into the low-income weatherization and structural  
18 rehabilitation assistance account created in RCW 70A.35.030.

19 (12) The department must adopt rules as necessary to implement  
20 this section, including but not limited to:

21 (a) Rules necessary to ensure timely, accurate, and complete  
22 reporting of building energy performance for all covered commercial  
23 buildings;

24 (b) Rules necessary to grant extensions to school districts as  
25 authorized in subsection (8)(b) of this section;

26 (c) Rules necessary to enforce the standard established under  
27 this section; and

28 ~~((e))~~ (d) Rules that provide a mechanism for appeal of any  
29 administrative penalty imposed by the department under this section.

30 (13) Upon request by the department, each county assessor must  
31 provide property data from existing records to the department as  
32 necessary to implement this section.

33 (14) By January 15, 2022, and each year thereafter through 2029,  
34 the department must submit a report to the governor and the  
35 appropriate committees of the legislature on the implementation of  
36 the state energy performance standard established under this section.  
37 The report must include information regarding the adoption of the  
38 ANSI/ASHRAE/IES standard 100-2018 as an initial model, the financial  
39 impact to building owners required to comply with the standard, the  
40 amount of incentives provided under RCW 19.27A.220 and 19.27A.230,

1 and any other significant information associated with the  
2 implementation of this section.

--- **END** ---