

SSB 5509 - S AMD 258  
By Senator Poulsen

ADOPTED 03/11/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that public  
4 buildings can be built and renovated using high-performance methods  
5 that save money, improve school performance, and make workers more  
6 productive. High-performance public buildings are proven to increase  
7 student test scores, reduce worker absenteeism, and cut energy and  
8 utility costs.

9 (2) It is the intent of the legislature that state-owned buildings  
10 and schools be improved by adopting recognized standards for high-  
11 performance public buildings and allowing flexible methods and choices  
12 in how to achieve those standards. The legislature also intends that  
13 public agencies and public school districts shall document costs and  
14 savings to monitor this program and ensure that economic, community,  
15 and environmental goals are achieved each year, and that an independent  
16 performance review be conducted to evaluate this program and determine  
17 the extent to which the results intended by this chapter are being met.

18 NEW SECTION. **Sec. 2.** The definitions in this section apply  
19 throughout this chapter unless the context clearly requires otherwise.

20 (1) "Department" means the department of general administration.

21 (2) "High-performance public buildings" means high-performance  
22 public buildings designed, constructed, and certified to a standard as  
23 identified in this chapter.

24 (3) "Institutions of higher education" means the state  
25 universities, the regional universities, The Evergreen State College,  
26 the community colleges, and the technical colleges.

27 (4) "LEED silver standard" means the United States green building  
28 council leadership in energy and environmental design green building  
29 rating standard, referred to as silver standard.

1 (5)(a) "Major facility project" means: (i) A construction project  
2 larger than five thousand gross square feet of occupied or conditioned  
3 space as defined in the Washington state energy code; or (ii) a  
4 building renovation project when the cost is greater than fifty percent  
5 of the assessed value and the project is larger than five thousand  
6 gross square feet of occupied or conditioned space as defined in the  
7 Washington state energy code.

8 (b) "Major facility project" does not include: (i) Projects for  
9 which the department, public school district, or other applicable  
10 agency and the design team determine the LEED silver standard or the  
11 Washington sustainable school design protocol to be not practicable; or  
12 (ii) transmitter buildings, pumping stations, hospitals, research  
13 facilities primarily used for sponsored laboratory experimentation,  
14 laboratory research, or laboratory training in research methods, or  
15 other similar building types as determined by the department. When the  
16 LEED silver standard is determined to be not practicable for a project,  
17 then it must be determined if any LEED standard is practicable for the  
18 project. If LEED standards or the Washington sustainable school design  
19 protocol are not followed for the project, the public school district  
20 or public agency shall report these reasons to the department.

21 (6) "Public agency" means every state office, officer, board,  
22 commission, committee, bureau, department, and public higher education  
23 institution.

24 (7) "Public school district" means a school district eligible to  
25 receive state basic education moneys pursuant to RCW 28A.150.250 and  
26 28A.150.260.

27 (8) "Washington sustainable school design protocol" means the  
28 school design protocol and related information developed by the state  
29 board of education and the office of the superintendent of public  
30 instruction, in conjunction with school districts and the school  
31 facilities advisory board.

32 NEW SECTION. **Sec. 3.** (1) All major facility projects of public  
33 agencies receiving any funding in a state capital budget, or projects  
34 financed through a financing contract as defined in RCW 39.94.020, must  
35 be designed, constructed, and certified to at least the LEED silver  
36 standard. This subsection applies to major facility projects that have

1 not entered the design phase prior to the effective date of this  
2 section and to the extent appropriate LEED silver standards exist for  
3 that type of building or facility.

4 (2) All major facility projects of any entity other than a public  
5 agency or public school district receiving any funding in a state  
6 capital budget must be designed, constructed, and certified to at least  
7 the LEED silver standard. This subsection applies to major facility  
8 projects that have not entered the grant application process prior to  
9 the effective date of this section and to the extent appropriate LEED  
10 silver standards exist for that type of building or facility.

11 (3)(a) Public agencies, under this section, shall monitor and  
12 document ongoing operating savings resulting from major facility  
13 projects designed, constructed, and certified as required under this  
14 section.

15 (b) Public agencies, under this section, shall report annually to  
16 the department on major facility projects and operating savings.

17 (4) The department shall consolidate the reports required in  
18 subsection (3) of this section into one report and report to the  
19 governor and legislature by September 1st of each even-numbered year  
20 beginning in 2006 and ending in 2016. In its report, the department  
21 shall also report on the implementation of this chapter, including  
22 reasons why the LEED standard was not used as required by section 2  
23 (5)(b) of this act. The department shall make recommendations  
24 regarding the ongoing implementation of this chapter, including a  
25 discussion of incentives and disincentives related to implementing this  
26 chapter.

27 NEW SECTION. **Sec. 4.** (1) All major facility projects of public  
28 school districts receiving any funding in a state capital budget must  
29 be designed and constructed to at least the LEED silver standard or the  
30 Washington sustainable school design protocol. To the extent  
31 appropriate LEED silver or Washington sustainable school design  
32 protocol standards exist for the type of building or facility, this  
33 subsection applies to major facility projects that have not received  
34 project approval from the superintendent of public instruction prior  
35 to: (a) July 1, 2006, for volunteering school districts; (b) July 1,  
36 2007, for class one school districts; and (c) July 1, 2008, for class  
37 two school districts.

1 (2) Public school districts under this section shall: (a) Monitor  
2 and document appropriate operating benefits and savings resulting from  
3 major facility projects designed and constructed as required under this  
4 section for a minimum of five years following local board acceptance of  
5 a project receiving state funding; and (b) report annually to the  
6 superintendent of public instruction. The form and content of each  
7 report must be mutually developed by the office of the superintendent  
8 of public instruction in consultation with school districts.

9 (3) The superintendent of public instruction shall consolidate the  
10 reports required in subsection (2) of this section into one report and  
11 report to the governor and legislature by September 1st of each even-  
12 numbered year beginning in 2006 and ending in 2016. In its report, the  
13 superintendent of public instruction shall also report on the  
14 implementation of this chapter, including reasons why the LEED standard  
15 or Washington sustainable school design protocol was not used as  
16 required by section 2(5)(b) of this act. The superintendent of public  
17 instruction shall make recommendations regarding the ongoing  
18 implementation of this chapter, including a discussion of incentives  
19 and disincentives related to implementing this chapter.

20 (4) The state board of education, in consultation with the  
21 superintendent of public instruction, shall develop and issue  
22 guidelines for administering this chapter for public school districts.  
23 The purpose of the guidelines is to define a procedure and method for  
24 employing and verifying compliance with the LEED silver standard or the  
25 Washington sustainable school design protocol.

26 (5) The superintendent of public instruction shall utilize the  
27 school facilities advisory board as a high-performance buildings  
28 advisory committee comprised of affected public schools, the state  
29 board of education, the superintendent of public instruction, the  
30 department, and others at the superintendent of public instruction's  
31 discretion to provide advice on implementing this chapter. Among other  
32 duties, the advisory committee shall make recommendations regarding an  
33 education and training process and an ongoing evaluation or feedback  
34 process to help the superintendent of public instruction and the state  
35 board of education implement this chapter.

36 NEW SECTION. **Sec. 5.** On or before January 1, 2009, the department  
37 and the superintendent of public instruction shall summarize the

1 reports submitted under sections 3(4) and 4(3) of this act and submit  
2 the individual reports to the legislative committees on capital budget  
3 and ways and means for review of the program's performance and  
4 consideration of any changes that may be needed to adapt the program to  
5 any new or modified standards for high-performance buildings that meet  
6 the intent of this chapter.

7 NEW SECTION. **Sec. 6.** (1)(a) The department, in consultation with  
8 affected public agencies, shall develop and issue guidelines for  
9 administering this chapter for public agencies. The purpose of the  
10 guidelines is to define a procedure and method for employing and  
11 verifying activities necessary for certification to at least the LEED  
12 silver standard for major facility projects.

13 (b) The department and the office of the superintendent of public  
14 instruction shall amend their fee schedules for architectural and  
15 engineering services to accommodate the requirements in the design of  
16 major facility projects under this chapter.

17 (c) The department and the office of the superintendent of public  
18 instruction shall procure architecture and engineering services  
19 consistent with chapter 39.80 RCW.

20 (d) Major facility projects designed to meet standards identified  
21 in this chapter must include building commissioning as a critical cost-  
22 saving part of the construction process. This process includes input  
23 from the project design and construction teams and the project  
24 ownership representatives.

25 (e) As provided in the request for proposals for construction  
26 services, the operating agency shall hold a preproposal conference for  
27 prospective bidders to discuss compliance with and achievement of  
28 standards identified in this chapter for prospective respondents.

29 (2) The department shall create a high-performance buildings  
30 advisory committee comprised of representatives from the design and  
31 construction industry involved in public works contracting, personnel  
32 from the affected public agencies responsible for overseeing public  
33 works projects, the state board of education, the office of the  
34 superintendent of public instruction, and others at the department's  
35 discretion to provide advice on implementing this chapter. Among other  
36 duties, the advisory committee shall make recommendations regarding an

1 education and training process and an ongoing evaluation or feedback  
2 process to help the department implement this chapter.

3 (3) The department and the state board of education shall adopt  
4 rules to implement this section.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.150  
6 RCW to read as follows:

7 (1) In adopting implementation rules, the state board of education,  
8 in consultation with the superintendent of public instruction and the  
9 department of general administration, shall review and modify the  
10 current requirement for an energy conservation report review by the  
11 department of general administration as provided in WAC 180-27-075.

12 (2) In adopting implementation rules, the state board of education,  
13 in consultation with the superintendent of public instruction shall:

14 (a) Review and modify the current requirements for value  
15 engineering, constructability review, and building commissioning as  
16 provided in WAC 180-27-080;

17 (b) Review private and public utility providers' capacity and  
18 financial/technical assistance programs for affected public school  
19 districts to monitor and report utility consumption for purposes of  
20 reporting to the superintendent of public instruction as provided in  
21 section 4 of this act;

22 (c) Coordinate with the department of general administration, the  
23 state board of health, the department of ecology, federal agencies, and  
24 other affected agencies as appropriate in their consideration of rules  
25 to implement this section.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 28B.10 RCW  
27 to read as follows:

28 Institutions of higher education must comply with high-performance  
29 public building requirements under sections 1 through 3 and 6 of this  
30 act.

31 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.150  
32 RCW to read as follows:

33 Public school districts must comply with high-performance public  
34 building requirements under sections 1, 2, 4, 6, and 7 of this act.

1        NEW SECTION.    **Sec. 10.** A member of the design or construction  
2 teams may not be held liable for the failure of a major facility  
3 project to meet the LEED silver standard or other LEED standard  
4 established for the project as long as a good faith attempt was made to  
5 achieve the LEED standard set for the project.

6        NEW SECTION.    **Sec. 11.** A new section is added to chapter 39.04 RCW  
7 to read as follows:

8        For purposes of determining compliance with chapter 39.-- RCW  
9 (sections 1 through 6, 10, and 12 through 14 of this act), the  
10 department of general administration shall credit the project for using  
11 wood products with a credible third party sustainable forest  
12 certification or from forests regulated under chapter 76.09 RCW, the  
13 Washington forest practices act.

14        NEW SECTION.    **Sec. 12.** Except as provided in this section,  
15 affordable housing projects funded out of the state capital budget are  
16 exempt from the provisions of this chapter. On or before July 1, 2008,  
17 the department of community, trade, and economic development shall  
18 identify, implement, and apply a sustainable building program for  
19 affordable housing projects that receive housing trust fund (under  
20 chapter 43.185 RCW) funding in a state capital budget. The department  
21 of community, trade, and economic development shall not develop its own  
22 sustainable building standard, but shall work with stakeholders to  
23 adopt an existing sustainable building standard or criteria appropriate  
24 for affordable housing. Any application of the program to affordable  
25 housing, including any monitoring to track the performance of either  
26 sustainable features or energy standards or both, is the responsibility  
27 of the department of community, trade, and economic development.  
28 Beginning in 2009 and ending in 2016, the department of community,  
29 trade, and economic development shall report to the department as  
30 required under section 3(3)(b) of this act.

31        NEW SECTION.    **Sec. 13.** It is the intent and an established goal of  
32 the LEED program as authored by the United States green building  
33 council to increase demand for building materials and products that are  
34 extracted and manufactured locally, thereby reducing the environmental  
35 impacts and to support the local economy. Therefore, it is the intent

1 of the legislature to emphasize this defined goal and establish a  
2 priority to use Washington state based resources, building materials,  
3 products, industries, manufacturers, and other businesses to provide  
4 economic development to Washington state and to meet the objectives of  
5 this chapter.

6 NEW SECTION. **Sec. 14.** The joint legislative audit and review  
7 committee, or its successor legislative agency, shall conduct a  
8 performance review of the high-performance buildings program  
9 established under this chapter.

- 10 (1) The performance audit shall include, but not be limited to:  
11 (a) The identification of the costs of implementation of high-  
12 performance building standards in the design and construction of major  
13 facility projects subject to this chapter;  
14 (b) The identification of operating savings attributable to the  
15 implementation of high-performance building standards, including but  
16 not limited to savings in energy, utility, and maintenance costs;  
17 (c) The identification of any impacts of high-performance buildings  
18 standards on worker productivity and student performance; and  
19 (d) An evaluation of the effectiveness of the high-performance  
20 building standards established under this chapter, and recommendations  
21 for any changes in those standards that may be supported by the  
22 committee's findings.  
23 (2) The committee shall make a preliminary report of its findings  
24 and recommendations on or before December 1, 2010, and a final report  
25 on or before July 1, 2011.

26 NEW SECTION. **Sec. 15.** Sections 1 through 6, 10, and 12 through 14  
27 of this act constitute a new chapter in Title 39 RCW."

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**ADOPTED 03/11/2005**

28 On page 1, line 1 of the title, after "buildings;" strike the



1 remainder of the title and insert "adding new sections to chapter  
2 28A.150 RCW; adding a new section to chapter 28B.10 RCW; adding a new  
3 section to chapter 39.04 RCW; and adding a new chapter to Title 39  
4 RCW."

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