

SENATE BILL REPORT

ESHB 1272

As of April 4, 2005

Title: An act relating to high-performance green buildings.

Brief Description: Concerning high-performance building standards.

Sponsors: House Committee on Capital Budget (originally sponsored by Representatives Dunshee, Jarrett, Linville, Nixon, Hunt, Rodne, Strow, Tom, McDermott, Sommers, Appleton, Simpson, Dickerson, Lovick, Hasegawa, Sells, Cody, Morrell, Chase, Hudgins, B. Sullivan, Schual-Berke, Williams, Lantz, Kilmer, Moeller, Roberts, Upthegrove, McCoy, Hunter, Darneille, Miloscia, Green, O'Brien, P. Sullivan, Anderson, Kenney, Murray, Wallace, Ormsby, Haigh, Kagi and McIntire).

Brief History: Passed House: 3/04/05, 78-18.

Committee Activity: Water, Energy & Environment: 3/24/05.

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Staff: William Bridges (786-7424)

Background: "Green building" is a term used to describe development and construction standards that promote environmental conservation. Introduced in 2000 by the U.S. Green Building Council, Leadership in Energy and Environmental Design (LEED) provides national design-guidelines and a third-party certification tool for rating commercial green buildings.

LEED certification is voluntary and fee-based. It is based on a point system, focusing on six major areas: sustainable sites; water efficiency; energy and atmosphere; materials and resources; indoor environmental quality; and innovation and design process. LEED certification has four ranks: LEED Certified, LEED Silver, LEED Gold, and LEED Platinum.

In January 2003, the legislatively created Joint Task Force on Green Building recommended legislation to adopt LEED silver standards, or comparable design standards, for the state-funded construction or renovation of buildings. A House bill was introduced during the 2003 session, and reintroduced during the 2004 session, but it never received a hearing.

In January 2005, Governor Locke issued an executive order directing state agencies to incorporate green building practices in all new construction projects and major remodels over 25,000 gross square feet. LEED silver standard certification is required or an alternative equivalent certification as determined by the Department of General Administration (GA).

"Building commissioning" is the process of testing all the systems in a building to determine if they are installed and working properly and making the necessary corrections to assure all the building systems are performing efficiently. Current State Board of Education rules require school districts to perform building commissioning for projects greater than 50,000 square feet.

Summary of Bill: LEED silver certification required for projects funded in capital budget.

All major facility projects funded in the capital budget, or projects financed through a financing contract as established in law, must be designed, constructed, and certified to at least the LEED silver standard, to the extent appropriate LEED silver standards exist for a project type. This requirement applies to any entity, including public agencies and public school districts, although the school districts may use the Washington Sustainable School Design Protocol.

Except for public school districts, the LEED standards apply to projects that enter into the design phase or the grant application process after the effective date of the act. School districts are subject to the following dates: July 1, 2006, for volunteering school districts; July 1, for 2007, Class I school districts; and July 1, 2008, for Class II school districts.

Operational savings of LEED projects must be documented and reported. Public agencies and school districts must document and report the operational savings of their LEED projects. Public agencies must annually report to GA, while public school districts must annually report to the Office of the Superintendent of Public Instruction (OSPI). Starting on September 1, 2006, and each even-numbered year until 2016, GA and the OSPI must consolidate the individual reports into a single biennial report for the Governor and the Legislature. If applicable, the consolidated reports must explain why high performance building standards were not used on a project.

Administrative guidelines must be issued by GA and the State Board of Education. GA and the State Board of Education must issue guidelines for the public agencies affected by this act, and fee schedules must be amended to accommodate the design standards required under this act.

An advisory committee is created. GA must create a high-performance buildings advisory committee to give advice on implementing this act. The committee must consist of representatives from the design and construction industry, affected public agencies, the State Board of Education, OSPI, and others at the GA's discretion. In addition, OSPI must use the school facilities advisory board as a high-performance buildings advisory committee.

Preproposal conferences and building commissioning are required. Requests for proposals on qualifying projects must provide for preproposal conferences to discuss the appropriate performance standards. Qualified major facility projects must include building commissioning as part of the construction process.

State Board of Education to adopt implementing rules. In adopting rules to implement this act, the State Board of Education must, among other things, review and modify current rules concerning energy conservation in the design of public buildings.

Liability is limited. Members of design and construction teams who act in good faith are not liable for the failure of a major facility project to meet LEED standards.

Certain wood not recognized by LEED must be credited. GA must credit projects for using wood products with a credible third party sustainable forest certification or from forests regulated under the Washington Forest Practices Act.

Affordable housing is exempted from LEED standards. Affordable housing projects funded in the capital budget are exempt from LEED standards. By July 1, 2008, the Department of Community Trade and Economic Development (CTED) must adopt and administer an existing sustainable building program for affordable housing. From 2009 to 2016, CTED must annually report to GA if the sustainable building standards are not used on a project.

JLARC to conduct performance review. JLARC must conduct a performance review of the high-performance building program, which must include identification of costs and savings. The committee must make a preliminary report of its findings and recommendations by December 1, 2010, and a final report by July 1, 2011.

Terms are defined. Various terms are defined, such as "Washington sustainable school design protocol," "major facility project," and "public agency." "Washington sustainable school design protocol" means the school design protocol developed by the State Board of Education and OSPI. "Major facility project" generally means: (1) a construction project larger than 5,000 gross square feet of occupied or conditioned space as defined in the Washington State Energy Code; or (2) a building renovation project when the cost is greater than 50 percent of the assessed value and the project is larger than 5,000 gross square feet of occupied or conditioned space as defined in the Washington State Energy Code. "Major facility project" does not include, among other things, hospitals, research facilities, and projects where it is determined that the LEED silver standard or the Washington sustainable school design protocol is not practicable. "Public agency" means every state office, officer, board, commission, committee, bureau, department, and public higher education institution.

Intent is established. Among other things, the Legislature finds that high-performance public buildings save money, improve school performance, and increase worker productivity. The legislature affirms the LEED program goal to increase the demand for locally extracted and manufactured building materials and products.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: The bill is identical to the Senate companion bill. This bill is an environmental community priority. It is the product of a broad coalition including architects, designers, builders, schools, teachers, timber and wood products industries, and higher education. The bill preserves local flexibility with opt-out and financial-practicability provisions. The bill is a cost-effective step toward advancing public health and the state's economy. The bill encourages the use of locally produced and recycled materials.

Testimony Against: None.

Other: The bill will increase costs for local school districts. For example, Bethel School District estimated a cost increase of 4.29 percent for its pilot green building project, while Northshore School District estimated a 4.5 percent increase. Because some school districts do not qualify for school construction funding, the additional green building costs must be fully

funded at the local level. In addition, it is very difficult to pass construction bonds in rural areas. Therefore, there should be a direct linkage to increased funding in the capital budget to offset the additional costs resulting from this bill.

Who Testified: PRO: Hans Dunshee, prime sponsor; Stan Bowman, Amer. Institute of Architects, Wash. Council; Clifford Traisman, Wash. Environmental Council & Wash. Conservation Voters; Mark Huppert, Catapult Development Partners; Tony Gale, Fulton Gale Architects; Angela Rae, Wash. State Recycling Assn.

Other: Charlie Brown, King and Pierce County School Coalition.