
ENGROSSED SUBSTITUTE SENATE BILL 5509

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Esser, Fraser, Schmidt, Pridemore, Fairley, Berkey, Kohl-Welles, Kline, Regala, Rockefeller, Weinstein, Brown, Keiser and McAuliffe)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to high-performance green buildings; adding new
2 sections to chapter 28A.150 RCW; adding a new section to chapter 28B.10
3 RCW; adding a new section to chapter 39.04 RCW; and adding a new
4 chapter to Title 39 RCW.

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

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

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

1 performance review be conducted to evaluate this program and determine
2 the extent to which the results intended by this chapter are being met.

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

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

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

9 (3) "Institutions of higher education" means the state
10 universities, the regional universities, The Evergreen State College,
11 the community colleges, and the technical colleges.

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

15 (5)(a) "Major facility project" means: (i) A construction project
16 larger than five thousand gross square feet of occupied or conditioned
17 space as defined in the Washington state energy code; or (ii) a
18 building renovation project when the cost is greater than fifty percent
19 of the assessed value and the project is larger than five thousand
20 gross square feet of occupied or conditioned space as defined in the
21 Washington state energy code.

22 (b) "Major facility project" does not include: (i) Projects for
23 which the department, public school district, or other applicable
24 agency and the design team determine the LEED silver standard or the
25 Washington sustainable school design protocol to be not practicable; or
26 (ii) transmitter buildings, pumping stations, hospitals, research
27 facilities primarily used for sponsored laboratory experimentation,
28 laboratory research, or laboratory training in research methods, or
29 other similar building types as determined by the department. When the
30 LEED silver standard is determined to be not practicable for a project,
31 then it must be determined if any LEED standard is practicable for the
32 project. If LEED standards or the Washington sustainable school design
33 protocol are not followed for the project, the public school district
34 or public agency shall report these reasons to the department.

35 (6) "Public agency" means every state office, officer, board,
36 commission, committee, bureau, department, and public higher education
37 institution.

1 (7) "Public school district" means a school district eligible to
2 receive state basic education moneys pursuant to RCW 28A.150.250 and
3 28A.150.260.

4 (8) "Washington sustainable school design protocol" means the
5 school design protocol and related information developed by the state
6 board of education and the office of the superintendent of public
7 instruction, in conjunction with school districts and the school
8 facilities advisory board.

9 NEW SECTION. **Sec. 3.** (1) All major facility projects of public
10 agencies receiving any funding in a state capital budget, or projects
11 financed through a financing contract as defined in RCW 39.94.020, must
12 be designed, constructed, and certified to at least the LEED silver
13 standard. This subsection applies to major facility projects that have
14 not entered the design phase prior to the effective date of this
15 section and to the extent appropriate LEED silver standards exist for
16 that type of building or facility.

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

24 (3)(a) Public agencies, under this section, shall monitor and
25 document ongoing operating savings resulting from major facility
26 projects designed, constructed, and certified as required under this
27 section.

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

30 (4) The department shall consolidate the reports required in
31 subsection (3) of this section into one report and report to the
32 governor and legislature by September 1st of each even-numbered year
33 beginning in 2006 and ending in 2016. In its report, the department
34 shall also report on the implementation of this chapter, including
35 reasons why the LEED standard was not used as required by section 2
36 (5)(b) of this act. The department shall make recommendations

1 regarding the ongoing implementation of this chapter, including a
2 discussion of incentives and disincentives related to implementing this
3 chapter.

4 NEW SECTION. **Sec. 4.** (1) All major facility projects of public
5 school districts receiving any funding in a state capital budget must
6 be designed and constructed to at least the LEED silver standard or the
7 Washington sustainable school design protocol. To the extent
8 appropriate LEED silver or Washington sustainable school design
9 protocol standards exist for the type of building or facility, this
10 subsection applies to major facility projects that have not received
11 project approval from the superintendent of public instruction prior
12 to: (a) July 1, 2006, for volunteering school districts; (b) July 1,
13 2007, for class one school districts; and (c) July 1, 2008, for class
14 two school districts.

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

23 (3) The superintendent of public instruction shall consolidate the
24 reports required in subsection (2) of this section into one report and
25 report to the governor and legislature by September 1st of each even-
26 numbered year beginning in 2006 and ending in 2016. In its report, the
27 superintendent of public instruction shall also report on the
28 implementation of this chapter, including reasons why the LEED standard
29 or Washington sustainable school design protocol was not used as
30 required by section 2(5)(b) of this act. The superintendent of public
31 instruction shall make recommendations regarding the ongoing
32 implementation of this chapter, including a discussion of incentives
33 and disincentives related to implementing this chapter.

34 (4) The state board of education, in consultation with the
35 superintendent of public instruction, shall develop and issue
36 guidelines for administering this chapter for public school districts.

1 The purpose of the guidelines is to define a procedure and method for
2 employing and verifying compliance with the LEED silver standard or the
3 Washington sustainable school design protocol.

4 (5) The superintendent of public instruction shall utilize the
5 school facilities advisory board as a high-performance buildings
6 advisory committee comprised of affected public schools, the state
7 board of education, the superintendent of public instruction, the
8 department, and others at the superintendent of public instruction's
9 discretion to provide advice on implementing this chapter. Among other
10 duties, the advisory committee shall make recommendations regarding an
11 education and training process and an ongoing evaluation or feedback
12 process to help the superintendent of public instruction and the state
13 board of education implement this chapter.

14 NEW SECTION. **Sec. 5.** On or before January 1, 2009, the department
15 and the superintendent of public instruction shall summarize the
16 reports submitted under sections 3(4) and 4(3) of this act and submit
17 the individual reports to the legislative committees on capital budget
18 and ways and means for review of the program's performance and
19 consideration of any changes that may be needed to adapt the program to
20 any new or modified standards for high-performance buildings that meet
21 the intent of this chapter.

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

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

32 (c) The department and the office of the superintendent of public
33 instruction shall procure architecture and engineering services
34 consistent with chapter 39.80 RCW.

35 (d) Major facility projects designed to meet standards identified
36 in this chapter must include building commissioning as a critical cost-

1 saving part of the construction process. This process includes input
2 from the project design and construction teams and the project
3 ownership representatives.

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

8 (2) The department shall create a high-performance buildings
9 advisory committee comprised of representatives from the design and
10 construction industry involved in public works contracting, personnel
11 from the affected public agencies responsible for overseeing public
12 works projects, the state board of education, the office of the
13 superintendent of public instruction, and others at the department's
14 discretion to provide advice on implementing this chapter. Among other
15 duties, the advisory committee shall make recommendations regarding an
16 education and training process and an ongoing evaluation or feedback
17 process to help the department implement this chapter.

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

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

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

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

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

32 (b) Review private and public utility providers' capacity and
33 financial/technical assistance programs for affected public school
34 districts to monitor and report utility consumption for purposes of
35 reporting to the superintendent of public instruction as provided in
36 section 4 of this act;

1 (c) Coordinate with the department of general administration, the
2 state board of health, the department of ecology, federal agencies, and
3 other affected agencies as appropriate in their consideration of rules
4 to implement this section.

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

7 Institutions of higher education must comply with high-performance
8 public building requirements under sections 1 through 3 and 6 of this
9 act.

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

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

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

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

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

27 NEW SECTION. **Sec. 12.** Except as provided in this section,
28 affordable housing projects funded out of the state capital budget are
29 exempt from the provisions of this chapter. On or before July 1, 2008,
30 the department of community, trade, and economic development shall
31 identify, implement, and apply a sustainable building program for
32 affordable housing projects that receive housing trust fund (under
33 chapter 43.185 RCW) funding in a state capital budget. The department

1 of community, trade, and economic development shall not develop its own
2 sustainable building standard, but shall work with stakeholders to
3 adopt an existing sustainable building standard or criteria appropriate
4 for affordable housing. Any application of the program to affordable
5 housing, including any monitoring to track the performance of either
6 sustainable features or energy standards or both, is the responsibility
7 of the department of community, trade, and economic development.
8 Beginning in 2009 and ending in 2016, the department of community,
9 trade, and economic development shall report to the department as
10 required under section 3(3)(b) of this act.

11 NEW SECTION. **Sec. 13.** It is the intent and an established goal of
12 the LEED program as authored by the United States green building
13 council to increase demand for building materials and products that are
14 extracted and manufactured locally, thereby reducing the environmental
15 impacts and to support the local economy. Therefore, it is the intent
16 of the legislature to emphasize this defined goal and establish a
17 priority to use Washington state based resources, building materials,
18 products, industries, manufacturers, and other businesses to provide
19 economic development to Washington state and to meet the objectives of
20 this chapter.

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

- 25 (1) The performance audit shall include, but not be limited to:
- 26 (a) The identification of the costs of implementation of high-
27 performance building standards in the design and construction of major
28 facility projects subject to this chapter;
- 29 (b) The identification of operating savings attributable to the
30 implementation of high-performance building standards, including but
31 not limited to savings in energy, utility, and maintenance costs;
- 32 (c) The identification of any impacts of high-performance buildings
33 standards on worker productivity and student performance; and
- 34 (d) An evaluation of the effectiveness of the high-performance
35 building standards established under this chapter, and recommendations

1 for any changes in those standards that may be supported by the
2 committee's findings.

3 (2) The committee shall make a preliminary report of its findings
4 and recommendations on or before December 1, 2010, and a final report
5 on or before July 1, 2011.

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

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