

SENATE BILL REPORT

SB 5854

As Reported by Senate Committee On:
Environment, Water & Energy, February 20, 2009

Title: An act relating to reducing climate pollution in the built environment.

Brief Description: Reducing climate pollution in the built environment.

Sponsors: Senators Kilmer, Pridemore, Ranker, Rockefeller, Marr, Fraser, Kohl-Welles, Kline, Murray and Keiser.

Brief History:

Committee Activity: Environment, Water & Energy: 2/11/09, 2/20/09 [DPS-WM, DNP].

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Majority Report: That Substitute Senate Bill No. 5854 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser, Hatfield, Marr and Ranker.

Minority Report: Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Delvin, Holmquist and Morton.

Staff: Jan Odano (786-7486)

Background: In 1992 the U.S. Environmental Protection Agency (EPA) introduced Energy Star as a voluntary labeling program designed to identify and promote energy-efficient products. The Energy Star label is found on major appliances, office equipment products, and residential heating and cooling equipment, lighting, and home electronics. EPA has also extended the label to cover new homes and commercial and industrial buildings.

To meet Energy Star qualifications a new home must meet guidelines for energy efficiency set by the EPA. These homes are at least 15 percent more energy efficient than homes built to the 2004 International Residential Code, and include additional energy-saving features that typically make them 20–30 percent more efficient than standard homes.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Energy Star program provides guidelines to assist with energy and financial performance. The Energy Star portfolio manager provides energy management tools and resources for building and plant owners to track and assess energy and water consumption, performance, and cost information. Energy Star uses a national energy performance rating based on a scale of 1 to 100 to assess a building's energy performance. This rating system provides a benchmark to assess building efficiency relative to similar buildings nationwide. A rating of 50 indicates average energy performance, while a rating of 75 or better indicates top performance. The rating is calculated based on elements such as building size, location, number of occupants, and equipment used. The rating system estimates how much energy the building would use if it were the best performing, the worst performing, and levels in between.

The State Building Code is comprised of national model codes adopted by reference and amended to meet the state's needs. The State Building Code includes the 2006 International Fire Code, Uniform Plumbing Code, Washington State Ventilation & Indoor Air Quality Code, International Building Code, and Residential Code. It also includes the Washington State Energy Code which is a state-written, state-specific code. The State Energy Code provides a minimum level of energy efficiency, but allows flexibility in building design, construction, and heating equipment efficiencies. The State Building Code Council (council) reviews, updates, and adopts new model state building codes every three years.

Architecture 2030 was established in response to the global-warming crisis. Its goal is to reduce greenhouse gas (GHG) emissions of the building sector by changing the way buildings and developments are planned, designed, and constructed. Architecture 2030 has issued the 2030 Challenge asking the global architecture and building community to adopt new building, development, and major renovation design targets to meet a fossil fuel, GHG-emitting, energy consumption performance standard of 50 percent of the regional (or country) average for that building type. Architecture 2030 sets forth fossil fuel reduction standards for all new buildings and major renovations to 60 percent in 2010; 70 percent in 2015; 80 percent in 2020; and 90 percent in 2025.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): The council must adopt state energy codes that require homes and buildings constructed from 2016 through 2031 to reduce energy use by 40 percent in 2013 to 70 percent reduction by 2031. If economic, technical, or process factors impede adoption of or compliance with the energy reduction targets, the council must report its findings to the Legislature the year before the code is enacted. The State Energy Code for residential and nonresidential buildings must reflect the 2006 edition of the State Energy Code, or as amended by rule by the council.

The Department of Community, Trade and Economic Development (CTED) must develop a strategic plan for enhancing energy efficiency and reducing greenhouse gases in homes, buildings, districts, and neighborhoods. The strategic plan must be used to direct increases in energy efficiency in the State Building Code. The energy efficiency increases must be consistent with the Architecture 2030 Challenge Schedule. CTED must complete the strategic plan by December 21, 2010, and provide updates every three years. The strategic

plan must identify barriers to achieving net zero energy use and ways to overcome these barriers in updated energy codes.

By January 1, 2010, qualifying utilities must maintain energy consumption data for all nonresidential and qualifying public agency buildings to which they provide service. Upon written authorization of a nonresidential building owner or operator, a qualifying utility must upload all of the energy consumption data to a portfolio manager. By January 1, 2011 or 2012, depending on building size, the property owner or operator of a nonresidential building must disclose energy performance data to prospective buyers, lessees, or lenders.

Qualifying public agencies must create an energy benchmark and report the performance rating for each reporting public facility. By January 1, 2010, the Department of General Administration (GA) must establish a state Portfolio Manager Master Account to provide shared reporting for all public facilities. The reports from reporting public facilities must be made available to the public through the portfolio manager website. GA must prepare a biennial report summarizing the statewide Portfolio Manager Master Account, with the first report due December 1, 2012. By July 1, 2011, reporting public facilities with a performance rating score below 50 must conduct a preliminary energy audit. An investment grade audit must be completed by July 1, 2013, if potential cost-effective energy conservation measures are identified. The energy conservation measures must be implemented by July 1, 2015. The state may not renew leases with buildings that have a portfolio manager score below 50.

Municipalities, defined as cities, towns, and counties, may engage in energy conservation services that lead to more efficient use of energy resources. These services may include energy provided from any source generated. The municipality must coordinate these services with existing utility programs provided in the municipality and must ensure that there is no duplication of pre-existing services or programs. The municipality has the authority to set rates, control the use and distribution of energy resources, and enter into agreements for the maintenance and operation of conservation utilities. Municipalities may provide financial assistance for energy efficiency services. The legislative authority of the city or town sets the terms of loans and repayment. Provisions are made for security of the loan and repayment including collection methods.

A county, city, town, or district may provide grants for conservation improvements to existing structures owned or occupied by individuals qualifying as poor or infirm. The county, city, town, or district and the property owner must enter into a loan agreement, in which the county, city, town, or district may retain a statutory lien on the property. Loans may be used to secure and repay general obligation or revenue bonds, notes, or other forms of indebtedness issued by or on behalf of the county, city, town, or district. In order to secure the payment of the principal and interest on any bonds or notes, the county, city, town, or district may create a reserve fund.

A utility may receive a public utility tax credit if it sells electricity, natural gas, or manufactured gas to a qualified building in the year that the building becomes qualified. The maximum credit available is \$500,000 on a first come first served basis. The credit is available until January 1, 2013. The benefit must be passed on to the building owner. Utilities are required to use electronic filing to apply for the tax credit.

EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Substitute as Passed Committee): School districts are not required to comply with the provisions of the bill. State agencies are provided until 2013 to implement energy efficiency measures that are identified in energy audits. Language is added to clarify that municipalities engaging in energy conservation services must avoid duplicating pre-existing programs and services. Utilities applying for a tax credit under the provisions of the bill must do so using electronic filing. The low-income housing weatherization provisions are removed.

Appropriation: None.

Fiscal Note: Requested on February 2, 2009.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee:
PRO: The bill is good for jobs and the environment; it will help cut greenhouse gas emissions, increase energy efficiency, reduce dependence of foreign oil, and create jobs. Buildings are the greatest energy wasters and easiest to make more efficient. The bill strengthens the government and consumer efficiency sector and empowers locals to finance. Providing information allows consumers and others to make better decisions. This would ensure the creation of an energy efficiency action strategy through the work of a public private partnership that could result in economic, environmental, and asset-building benefits to the residents and businesses of the state.

CON: The bill doesn't address existing structures, which is the problem. The current Energy Star and Green Building programs are incentive based for energy efficiency. Mandating such programs will lose the incentives. The target goals are very lofty and may not be achievable, making the bill unsuccessful. The requirements should be in line with national standards. Authorizing cities to engage in the sale or distribution of energy conservation services and financing energy efficiency measures is an improper work around the State Constitution and other requirements of law. Requiring energy efficiency audits at the point of sale should not be a marketing tool. The real estate disclosure form is the appropriate method for achieving this goal. The lien provisions in the bill should not supersede other liens.

OTHER: The bill should be clarified to require the Washington State Building Code Council evaluate energy codes to be used as the baseline for making energy conservation improvements or specifically name the International Energy Conservation code as the base energy code.

Persons Testifying: PRO: Senator Kilmer, prime sponsor; Kraig Stevenson, International Code Council; Christopher Young, City of Arlington; Marc Jenefsky, American Institute of Architects; Nancy Hirsh, NW Energy Coalition; Paul Zemlsov, The Madrone Group; John Barelli, realtor; Joel Sisolak, Cascadia Green Building Council; Terry Hull, Shorebank Enterprise; Sharon Moore, League of Women Voters of Washington; Peter Debrovny, city of Seattle; Court Olsen, Olympia Association; Craig Engelking, Sierra Club; Cliff Traisman,

Washington Conservation Voters, WA Environmental Council; Jim Lazar, Microdesign Northwest; Gary Bollinger-Smith, Moontown Foundation.

CON: Bill Clarke, Washington Realtors; Denny Eliasson, Washington Bankers Association; Collins Sprage, Avista Corporation; Pat McBride, Diane Glenn, Build Green Consultants; Patrick Hayes, Energy Consultant.

OTHER: Ken Johnson, Puget Sound Energy.