

SENATE BILL REPORT

E2SSB 5854

As Amended by House, April 14, 2009

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

Brief Description: Reducing climate pollution in the built environment.

Sponsors: Senate Committee on Ways & Means (originally sponsored by 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].

Ways & Means: 3/02/09 [DP2S, DNP, w/oRec].

Passed Senate: 3/10/09, 42-5.

Passed House: 4/14/09, 67-30.

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)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5854 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Pridemore and Rockefeller.

Minority Report: Do not pass.

Signed by Senators Zarelli, Ranking Minority Member; Carrell.

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.

Minority Report: That it be referred without recommendation.

Signed by Senators Brandland, Parlette and Schoesler.

Staff: Brian Sims (786-7431)

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.

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.

Summary of Engrossed Second Substitute Bill: The council must adopt state energy codes that require homes and buildings constructed from 2013 through 2031 to incrementally move towards a 70 percent reduction in energy use 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 would otherwise be 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 GHG in homes, buildings, districts, and neighborhoods. The strategic plan must be used to direct increases in energy

efficiency in the State Building Code. 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. The council and CTED must convene a workgroup to inform the initial development of the strategic plan.

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, 2016.

The director of GA, in consultation with OFM and affected state agencies, must review the cost and delivery of agency programs to determine the viability of relocating from buildings leased by the state with a national energy performance score below 50.

CTED must recommend to the Legislature by December 31, 2009, an energy performance score for residential buildings.

Provisions requiring activities by state agencies are in effect only during fiscal periods in which specific funding is provided.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Environment, Water & Energy): PRO: The bill is good for jobs and the environment; it will help cut GHG 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 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 to 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 (Environment, Water & Energy): 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, Washington 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.

Staff Summary of Public Testimony (Ways & Means): PRO: The bill is good for jobs and the environment; it will help cut GHG emissions, increase energy efficiency, reduce dependence of foreign oil, and create jobs. Buildings are the greatest energy wasters and easiest to make more efficient. 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. The proposed second substitute has significantly reduced the fiscal impact.

Persons Testifying (Ways & Means): PRO: Stan Bowman, American Institute of Architects Washington Council; Cliff Traisman, Washington Conservation Voters, Washington Environmental Council; Carrie Dolwick, Northwest Energy Coalition.

House Amendment(s):

- Removes the provisions in the underlying Senate Bill for walk-through energy audits and efficiency measures for leasing or renewing leases of buildings by state agencies.
- Specifies that state agencies may not enter into a new lease or lease renewal for a building with an energy performance score below 75 unless:
 - a preliminary audit has been conducted within the last two years; and
 - the owner agrees to perform an investment grade audit and implement cost-effective energy conservation measures within the first two years of the lease agreement.
- Allows the Director of OFM to waive these requirements if it is determined that compliance is not cost-effective or feasible.