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**Technology, Energy & Communications  
Committee**

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**HB 1388**

**Brief Description:** Delaying certain changes to the Washington state energy code until April 1, 2012.

**Sponsors:** Representatives Dammeier, Hurst, Kretz, Haigh, Kristiansen, Finn, Short, Blake, Kelley, Takko, Hasegawa, Sells, Green, Angel, Sullivan, Ross, Alexander, Chandler, Buys, Haler, Springer, Hinkle, Walsh, Crouse, Taylor, McCune, Kenney, Condotta, Smith and Klippert.

**Brief Summary of Bill**

- Prohibits implementation of the adopted 2009 changes to the State Energy Code until April 1, 2012.

**Hearing Date:** 1/28/11

**Staff:** Kara Durbin (786-7133).

**Background:**

Joint Administrative Rules Review Committee

The Joint Administrative Rules Review Committee (JARRC) is an eight-member bipartisan legislative committee established to selectively review proposed and existing state agency rules. The JARRC is authorized to recommend the suspension of an agency rule when it finds that the rule does not conform with the intent of the Legislature or was not adopted in compliance with all applicable provisions of law.

State Energy Code

The State Energy Code is part of the State Building Code, which sets the minimum construction requirements for buildings in the state. The State Energy Code provides a minimum level of

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energy efficiency for residential and non-residential buildings, but allows flexibility in building design, construction, and heating equipment efficiencies.

The State Building Code Council (Council) maintains the State Energy Code and reviews the State Energy Code every three years when new model codes are published. During the year of release of new model codes, the Council, with the assistance of their Technical Advisory Group (TAG), reviews any proposed changes to the State Energy Code. Any decision by the Council to amend the State Energy Code must be made prior to December 1 of any year, and the amendments do not take effect before the end of the next regular legislative session in the next year.

### 2009 Legislation

In 2009, the Legislature passed legislation that, among other things, directed the Council to adopt energy codes from 2013 through 2031 that incrementally move towards achieving a 70 percent reduction in annual net energy consumption for residential and non-residential construction, using the 2006 State Energy Code as a baseline.

### Development of the 2009 State Energy Code

In March of 2009, the Council received 170 proposals to change the State Energy Code. The 170 proposals, as a total package, were estimated by the Department of Commerce to reach approximately a 30 percent reduction in energy use. After reviewing the proposals, the TAG recommended to the Council that 100 of those proposals move forward for further consideration.

On October 1, 2009, the JARRC held a public hearing to consider: (1) the sufficiency of the Small Business Economic Impact Statement (SBEIS) related to the Council's proposed energy codes; and (2) whether a cost-benefit analysis of the proposed energy codes should be conducted. Following the meeting, the JARRC sent a letter to the Council on October 14, 2009, requesting that it amend its SBEIS to comply with all requirements of the Regulatory Fairness Act, and to support it with a detailed and rigorous cost analysis of the cumulative impact of all of the proposed changes. On November 19, 2009, the Council sent a response letter to the JARRC, indicating that it believed that the estimates provided in the original SBEIS filed on August 19, 2009, represented a reasonable estimate of the cumulative costs of all the measures. The Council included with its response letter copies of the studies that were used in preparing its analysis. On November 20, 2009, the Council considered a range of additional amendments to the proposed rule, WAC 51-11, and, after adopting amendments to the proposed rule, ultimately voted to adopt the 2009 State Energy Code as amended, effective July 1, 2010.

On December 9, 2009, the JARRC held a second public hearing to consider the Council's November 19, 2009, response to its request. The JARRC, by motion of the committee, concluded that the Council's adoption of the 2009 State Energy Code failed to: (1) comply with all the requirements of the law; and (2) adequately respond to the JARRC's October 14, 2009, request for additional information.

### 2010 Delay in Implementation

On June 8, 2010, the Governor asked the Council to delay implementation of the 2009 State Energy Code until April 1, 2011. On June 11, 2010, the Council met and decided to file for an emergency rule to delay the effective date of the 2009 State Energy Code until October 29, 2010. On October 15, 2010, the Council considered whether to file an extension to the emergency rule

and further delay implementation of the rule, or whether to have the State Energy Code go into effect on October 29 as indicated in the emergency rule. The Council voted to implement the 2009 State Energy Code effective January 1, 2011.

As a result of the Council's action on October 15, 2010, the 2009 State Energy Code became effective on January 1, 2011.

**Summary of Bill:**

The bill specifies that changes to the State Energy Code adopted by the State Building Code Council on November 20, 2009, may not be implemented prior to April 1, 2012.

The provisions of the bill (except for the intent section) expire on April 1, 2014.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.