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SENATE BILL 5300

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Hargrove and Ranker

Read first time 01/20/11. Referred to Committee on Natural Resources & Marine Waters.

1 AN ACT Relating to enhancing the use of Washington natural  
2 resources in public buildings; amending RCW 39.35D.010, 39.35D.020,  
3 39.35D.030, 39.35D.040, 39.35D.060, and 39.35D.080; and repealing RCW  
4 39.35D.070 and 39.35D.090.

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

6 **Sec. 1.** RCW 39.35D.010 and 2009 c 519 s 8 are each amended to read  
7 as follows:

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

13 (2)(a) It is the intent of the legislature that state-owned  
14 buildings and schools be improved by adopting recognized standards for  
15 high-performance public buildings, reducing energy consumption, and  
16 allowing flexible methods and choices in how to achieve those standards  
17 and reductions.

18 (b) Further, the legislature intends to increase demand for  
19 building materials and products that are extracted and manufactured

1 locally, thereby reducing environmental impacts and supporting the  
2 local economy. It is the intent of the legislature to emphasize and  
3 establish a priority to use Washington state-based resources, wood and  
4 wood products, building materials, products, industries, manufacturers,  
5 and other businesses to provide economic development to Washington  
6 state and to meet the objectives of this chapter.

7 (c) The legislature also intends that public agencies and public  
8 school districts shall document costs and savings to monitor this  
9 program and ensure that economic, community, and environmental goals  
10 are achieved each year, and that an independent performance review be  
11 conducted to evaluate this program and determine the extent to which  
12 the results intended by this chapter are being met.

13 (3) The legislature further finds that state agency leadership is  
14 needed in the development of preparation and adaptation actions for  
15 climate change to ensure the economic health, safety, and environmental  
16 well-being of the state and its citizens.

17 **Sec. 2.** RCW 39.35D.020 and 2006 c 263 s 330 are each amended to  
18 read as follows:

19 The definitions in this section apply throughout this chapter  
20 unless the context clearly requires otherwise.

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

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

25 (3) "Institutions of higher education" means the state  
26 universities, the regional universities, The Evergreen State College,  
27 the community colleges, and the technical colleges.

28 (4) (~~("LEED silver standard" means the United States green building~~  
29 ~~council leadership in energy and environmental design green building~~  
30 ~~rating standard, referred to as silver standard.~~

31 ~~(5))~~(a) "Major facility project" means: (i) A construction  
32 project larger than five thousand gross square feet of occupied or  
33 conditioned space as defined in the Washington state energy code; or  
34 (ii) a building renovation project when the cost is greater than fifty  
35 percent of the assessed value and the project is larger than five  
36 thousand gross square feet of occupied or conditioned space as defined  
37 in the Washington state energy code.

1 (b) "Major facility project" does not include: (i) Projects for  
2 which the department, public school district, or other applicable  
3 agency and the design team determine the (~~LEED silver standard or~~  
4 ~~the~~) Washington sustainable (~~school~~) design protocol to be not  
5 practicable; or (ii) transmitter buildings, pumping stations,  
6 hospitals, research facilities primarily used for sponsored laboratory  
7 experimentation, laboratory research, or laboratory training in  
8 research methods, or other similar building types as determined by the  
9 department. (~~When the LEED silver standard is determined to be not~~  
10 ~~practicable for a project, then it must be determined if any LEED~~  
11 ~~standard is practicable for the project.~~) If (~~LEED standards or~~)  
12 the Washington sustainable (~~school~~) design protocol are not followed  
13 for the project, the public school district or public agency shall  
14 report these reasons to the department.

15 ((+6)) (5) "Public agency" means every state office, officer,  
16 board, commission, committee, bureau, department, and public higher  
17 education institution.

18 ((+7)) (6) "Public school district" means a school district  
19 eligible to receive state basic education moneys pursuant to RCW  
20 28A.150.250 and 28A.150.260.

21 ((+8)) (7) "Washington sustainable (~~school~~) design protocol"  
22 means the (~~school~~) design protocol and related information developed  
23 by the department and the office of the superintendent of public  
24 instruction(~~, in conjunction with school districts and the school~~  
25 ~~facilities advisory board~~) that incorporates all the United States  
26 green building council leadership in energy and environmental design  
27 green building rating standard, except for the provisions relating to  
28 wood certification that discriminate against Washington wood.

29 **Sec. 3.** RCW 39.35D.030 and 2005 c 12 s 3 are each amended to read  
30 as follows:

31 (1) All major facility projects of public agencies receiving any  
32 funding in a state capital budget, or projects financed through a  
33 financing contract as defined in RCW 39.94.020, must be designed,  
34 constructed, and certified to at least the(~~LEED silver standard.~~  
35 ~~This subsection applies to major facility projects that have not~~  
36 ~~entered the design phase prior to July 24, 2005, and to the extent~~

1 ~~appropriate LEED silver standards exist for that type of building or~~  
2 ~~facility)) Washington sustainable design protocol beginning July 1,~~  
3 ~~2012.~~

4 (2) All major facility projects of any entity other than a public  
5 agency or public school district receiving any funding in a state  
6 capital budget must be designed, constructed, and certified to at least  
7 the ~~((LEED silver standard. This subsection applies to major facility~~  
8 ~~projects that have not entered the grant application process prior to~~  
9 ~~July 24, 2005, and to the extent appropriate LEED silver standards~~  
10 ~~exist for that type of building or facility)) Washington sustainable~~  
11 ~~design protocol beginning July 1, 2012.~~

12 (3)(a) Public agencies, under this section, shall monitor and  
13 document ongoing operating savings resulting from major facility  
14 projects designed, constructed, and certified as required under this  
15 section.

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

18 (4) The department shall consolidate the reports required in  
19 subsection (3) of this section into one report and report to the  
20 governor and legislature by September 1st of each even-numbered year  
21 beginning in 2006 and ending in 2016. In its report, the department  
22 shall also report on the implementation of this chapter, including  
23 reasons why the ~~((LEED standard)) Washington sustainable design~~  
24 ~~protocol~~ was not used as required by RCW 39.35D.020(~~((+5))~~) ~~(4)~~(b). The  
25 department shall make recommendations regarding the ongoing  
26 implementation of this chapter, including a discussion of incentives  
27 and disincentives related to implementing this chapter.

28 **Sec. 4.** RCW 39.35D.040 and 2006 c 263 s 331 are each amended to  
29 read as follows:

30 (1) All major facility projects of public school districts  
31 receiving any funding in a state capital budget must be designed and  
32 constructed to at least the ~~((LEED silver standard or the))~~ Washington  
33 sustainable ~~((school))~~ design protocol beginning July 1, 2012. ~~((To~~  
34 ~~the extent appropriate LEED silver or Washington sustainable school~~  
35 ~~design protocol standards exist for the type of building or facility,~~  
36 ~~this subsection applies to major facility projects that have not~~  
37 ~~received project approval from the superintendent of public instruction~~

1 ~~prior to: (a) July 1, 2006, for volunteering school districts; (b)~~  
2 ~~July 1, 2007, for class one school districts; and (c) July 1, 2008, for~~  
3 ~~class two school districts.)~~

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

12 (3) The superintendent of public instruction shall consolidate the  
13 reports required in subsection (2) of this section into one report and  
14 report to the governor and legislature by September 1st of each even-  
15 numbered year beginning in 2006 and ending in 2016. In its report, the  
16 superintendent of public instruction shall also report on the  
17 implementation of this chapter, including reasons why the (~~LEED~~  
18 ~~standard or~~) Washington sustainable (~~school~~) design protocol was not  
19 used as required by RCW 39.35D.020(~~(+5)~~) (4)(b). The superintendent  
20 of public instruction shall make recommendations regarding the ongoing  
21 implementation of this chapter, including a discussion of incentives  
22 and disincentives related to implementing this chapter.

23 (4) The superintendent of public instruction shall develop and  
24 issue guidelines for administering this chapter for public school  
25 districts. The purpose of the guidelines is to define a procedure and  
26 method for employing and verifying compliance with the (~~LEED silver~~  
27 ~~standard or the~~) Washington sustainable (~~school~~) design protocol.

28 (5) The superintendent of public instruction shall utilize the  
29 school facilities advisory board as a high-performance buildings  
30 advisory committee comprised of affected public schools, the  
31 superintendent of public instruction, the department, and others at the  
32 superintendent of public instruction's discretion to provide advice on  
33 implementing this chapter. Among other duties, the advisory committee  
34 shall make recommendations regarding an education and training process  
35 and an ongoing evaluation or feedback process to help the  
36 superintendent of public instruction implement this chapter.

1       **Sec. 5.** RCW 39.35D.060 and 2006 c 263 s 332 are each amended to  
2 read as follows:

3       (1)(a) The department, in consultation with affected public  
4 agencies, shall develop and issue guidelines for administering this  
5 chapter for public agencies. The purpose of the guidelines is to  
6 define a procedure and method for employing and verifying activities  
7 necessary for certification to at least the (~~LEED silver standard~~)  
8 Washington sustainable design protocol for major facility projects.

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

13       (c) The department and the office of the superintendent of public  
14 instruction shall procure architecture and engineering services  
15 consistent with chapter 39.80 RCW.

16       (d) Major facility projects designed to meet standards identified  
17 in this chapter must include building commissioning as a critical cost-  
18 saving part of the construction process. This process includes input  
19 from the project design and construction teams and the project  
20 ownership representatives.

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

25       (2) The department shall create a high-performance buildings  
26 advisory committee comprised of representatives from the design and  
27 construction industry involved in public works contracting, personnel  
28 from the affected public agencies responsible for overseeing public  
29 works projects, the office of the superintendent of public instruction,  
30 and others at the department's discretion to provide advice on  
31 implementing this chapter. Among other duties, the advisory committee  
32 shall make recommendations regarding an education and training process  
33 and an ongoing evaluation or feedback process to help the department  
34 implement this chapter.

35       (3) The department and the office of the superintendent of public  
36 instruction shall adopt rules to implement this section.

1       **Sec. 6.** RCW 39.35D.080 and 2005 c 12 s 12 are each amended to read  
2 as follows:

3       Except as provided in this section, affordable housing projects  
4 funded out of the state capital budget are exempt from the provisions  
5 of this chapter. (~~On or before July 1, 2008~~) For any new housing  
6 projects after July 1, 2012, the department of (~~community, trade, and~~  
7 ~~economic development~~) commerce shall identify, implement, and apply  
8 (~~a sustainable building program~~) the Washington sustainable design  
9 protocol for affordable housing projects that receive housing trust  
10 fund (under chapter 43.185 RCW) funding in a state capital budget. The  
11 department of (~~community, trade, and economic development~~) commerce  
12 shall not develop its own sustainable building standard, but shall work  
13 with stakeholders to adopt an existing sustainable building standard or  
14 criteria appropriate for affordable housing. Any application of the  
15 program to affordable housing, including any monitoring to track the  
16 performance of either sustainable features or energy standards or both,  
17 is the responsibility of the department of (~~community, trade, and~~  
18 ~~economic development~~) commerce. Beginning in 2009 and ending in 2016,  
19 the department of (~~community, trade, and economic development~~)  
20 commerce shall report to the department as required under RCW  
21 39.35D.030(3)(b).

22       NEW SECTION. **Sec. 7.** The following acts or parts of acts are each  
23 repealed:

24       (1) RCW 39.35D.070 (Liability for failure to meet standards) and  
25 2005 c 12 s 10; and

26       (2) RCW 39.35D.090 (Use of local building materials and products--  
27 Intent) and 2005 c 12 s 13.

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