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SENATE BILL 6341

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Hargrove and Schoesler

Read first time 01/22/14. Referred to Committee on Governmental Operations.

1 AN ACT Relating to establishing the LEED plus W high-performance  
2 building standard; amending RCW 39.35D.020, 39.35D.030, 39.35D.040,  
3 39.35D.060, 39.35D.070, and 39.35D.090; adding a new section to chapter  
4 39.35D RCW; creating new sections; providing an effective date; and  
5 providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that research has  
8 shown the importance of reducing environmental impacts through building  
9 design. The primary focus of high-performance building design under  
10 state law has been an attempt to reduce heating and cooling  
11 requirements over the course of a building's lifetime. However, what  
12 has been overlooked are opportunities to reduce energy consumption,  
13 carbon emissions, and other environmental impacts at earlier stages in  
14 the building prior to and during construction.

15 The selection of building materials and products, such as using  
16 wood and wood products, provides substantial opportunities to reduce  
17 lifetime energy consumption, carbon emissions, and other environmental  
18 impacts. A key component of comprehensive life-cycle analysis is the

1 energy and carbon expended in the manufacturing and production of the  
2 building materials being considered in the construction of public  
3 facilities.

4 Additionally, a thorough examination of the state building code for  
5 any barriers to the use of wood, and an examination of available  
6 options to address those barriers, is necessary to ensure that the  
7 state can benefit, to the maximum extent possible, from the energy and  
8 environmental benefits of this resource.

9 **Sec. 2.** RCW 39.35D.020 and 2011 1st sp.s. c 43 s 249 are each  
10 amended to read as follows:

11 The definitions in this section apply throughout this chapter  
12 unless the context clearly requires otherwise.

13 (1) "Department" means the department of enterprise services.

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

17 (3) "Institutions of higher education" means the state  
18 universities, the regional universities, The Evergreen State College,  
19 the community colleges, and the technical colleges.

20 (4) "LEED (~~(silver)~~) plus W standard" means the (~~(United States~~  
21 ~~green building council leadership in)~~) energy and environmental design  
22 (~~(green building rating)~~) standard(~~(, referred to as silver standard)~~)  
23 developed and maintained under section 3 of this act.

24 (5)(a) "Major facility project" means: (i) A construction project  
25 larger than five thousand gross square feet of occupied or conditioned  
26 space as defined in the Washington state energy code; or (ii) a  
27 building renovation project when the cost is greater than fifty percent  
28 of the assessed value and the project is larger than five thousand  
29 gross square feet of occupied or conditioned space as defined in the  
30 Washington state energy code.

31 (b) "Major facility project" does not include: (i) Projects for  
32 which the department, public school district, or other applicable  
33 agency and the design team determine the LEED (~~(silver)~~) plus W  
34 standard or the Washington sustainable school design protocol to be not  
35 practicable; or (ii) transmitter buildings, pumping stations,  
36 hospitals, research facilities primarily used for sponsored laboratory  
37 experimentation, laboratory research, or laboratory training in

1 research methods, or other similar building types as determined by the  
2 department. When the LEED (~~(silver)~~) plus W standard is determined to  
3 be not practicable for a project, then (~~(it must be determined if any~~  
4 ~~LEED standard is practicable for the project. If LEED standards or the~~  
5 ~~Washington sustainable school design protocol are not followed for the~~  
6 ~~project,~~) the public school district or public agency shall report  
7 these reasons to the department.

8 (6) "Public agency" means every state office, officer, board,  
9 commission, committee, bureau, department, and public higher education  
10 institution.

11 (7) "Public school district" means a school district eligible to  
12 receive state basic education moneys pursuant to RCW 28A.150.250 and  
13 28A.150.260.

14 (8) "Washington sustainable school design protocol" means the  
15 school design protocol and related information developed by the office  
16 of the superintendent of public instruction, in conjunction with school  
17 districts and the school facilities advisory board.

18 (9) "Embodied energy" means the total amount of energy consumed or  
19 emitted to extract, manufacture, assemble, transport, and install  
20 materials or products.

21 NEW SECTION. Sec. 3. A new section is added to chapter 39.35D RCW  
22 to read as follows:

23 (1) The department must develop a high-performance public building  
24 standard, to be known as the LEED plus W standard, designed to maximize  
25 the sustainability and environmental performance of major facility  
26 projects.

27 (2) The LEED plus W standard must address the multiple facets of  
28 high-performance public buildings in categories including energy use  
29 and efficiency, sustainable building materials and resources, site  
30 planning, water efficiency, and indoor environmental quality.

31 (3) In designing and maintaining the LEED plus W standard, the  
32 department must ensure that at least:

33 (a) Thirty percent of the total points or credits available in the  
34 standard relate to energy. The point allocation for energy must be  
35 based on a life cycle assessment of the building and building materials  
36 and products to include a comprehensive analysis of the project's

1 energy use ranging from the embodied energy, post-construction energy  
2 efficiency and use, and end-of-life disposal of materials and products;  
3 and

4 (b) Fifteen percent of the total points or credits available relate  
5 to sustainable building materials and resources. This point allocation  
6 must: (i) Recognize wood and other low-embodied carbon and energy  
7 products as environmentally preferred products; (ii) recognize  
8 materials and products extracted or produced in Washington; and (iii)  
9 provide equitable treatment of wood that has received any credible  
10 third-party sustainable forest certification.

11 (4) Once in effect, the LEED plus W standard must be reviewed and  
12 updated, if necessary and consistent with the provisions of this  
13 section, every five years beginning in 2015. The department must  
14 include the results of the review and a summary of any changes made in  
15 the report required under RCW 39.35D.030(4). The department may  
16 include in the review and report any legislative recommendations along  
17 with the results of the review, whether relating to recommended changes  
18 to this chapter or otherwise.

19 **Sec. 4.** RCW 39.35D.030 and 2011 c 99 s 1 are each amended to read  
20 as follows:

21 (1) All major facility projects of public agencies receiving any  
22 funding in a state capital budget, or projects financed through a  
23 financing contract as defined in RCW 39.94.020, must be designed,  
24 constructed, and certified to at least the LEED (~~(silver)~~) plus W  
25 standard. (~~((This subsection applies to major facility projects that  
26 have not entered the design phase prior to July 24, 2005, and to the  
27 extent appropriate LEED silver standards exist for that type of  
28 building or facility.))~~)

29 (2) All major facility projects of any entity other than a public  
30 agency or public school district receiving any funding in a state  
31 capital budget must be designed, constructed, and certified to at least  
32 the LEED (~~(silver)~~) plus W standard. (~~((This subsection applies to  
33 major facility projects that have not entered the grant application  
34 process prior to July 24, 2005, and to the extent appropriate LEED  
35 silver standards exist for that type of building or facility.))~~)

36 (3)(a) Public agencies, under this section, shall monitor and

1 document ongoing operating savings resulting from major facility  
2 projects designed, constructed, and certified as required under this  
3 section.

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

6 (4) The department shall consolidate the reports required in  
7 subsection (3) of this section into one report and report to the  
8 governor and legislature by September 1st of each ~~((even-numbered))~~  
9 year ~~((beginning in 2006 and ending in 2016))~~. In its report, the  
10 department shall also report on the implementation of this chapter,  
11 including information required under section 3 of this act and, if  
12 applicable, reasons why the LEED plus W standard was not used as  
13 required by RCW 39.35D.020(5)(b). The department shall make  
14 recommendations regarding the ongoing implementation of this chapter,  
15 including a discussion of incentives and disincentives related to  
16 implementing this chapter.

17 ~~((5) For the purposes of determining compliance with the  
18 requirement for a project to be designed, constructed, and certified to  
19 at least the LEED silver standard, the department must credit one  
20 additional point for a project that uses wood products with a credible  
21 third party sustainable forest certification or from forests regulated  
22 under chapter 76.09 RCW, the Washington forest practices act. For  
23 projects that qualify for this additional point, and for which an  
24 additional point would have resulted in formal certification under the  
25 LEED silver standard, the project must be deemed to meet the standard  
26 under this section.))~~

27 **Sec. 5.** RCW 39.35D.040 and 2011 c 99 s 2 are each amended to read  
28 as follows:

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

1 to: ~~(a) July 1, 2006, for volunteering school districts; (b) July 1,~~  
2 ~~2007, for class one school districts; and (c) July 1, 2008, for class~~  
3 ~~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  
16 report, the superintendent of public instruction shall also report on  
17 the implementation of this chapter, including reasons why the LEED plus  
18 W standard or Washington sustainable school design protocol was not  
19 used as required by RCW 39.35D.020(5)(b). The superintendent of public  
20 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 plus W 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.

37 ~~((6) For projects that comply with this section by meeting the~~  
38 ~~LEED silver standard, the superintendent of public instruction must~~

1 ~~credit one additional point for a project that uses wood products with~~  
2 ~~a credible third party sustainable forest certification or from forests~~  
3 ~~regulated under chapter 76.09 RCW, the Washington forest practices act.~~  
4 ~~For projects that qualify for this additional point, and for which an~~  
5 ~~additional point would have resulted in formal certification under the~~  
6 ~~LEED silver standard, the project must be deemed to meet the~~  
7 ~~requirements of subsection (1) of this section.)~~

8       **Sec. 6.** RCW 39.35D.060 and 2006 c 263 s 332 are each amended to  
9 read as follows:

10       (1)(a) The department, in consultation with affected public  
11 agencies, shall develop and issue guidelines for administering this  
12 chapter for public agencies. The purpose of the guidelines is to  
13 define a procedure and method for employing and verifying activities  
14 necessary for certification to at least the LEED ((~~silver~~)) plus W  
15 standard for major facility projects.

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

20       (c) The department and the office of the superintendent of public  
21 instruction shall procure architecture and engineering services  
22 consistent with chapter 39.80 RCW.

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

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

32       (2) The department shall create a high-performance buildings  
33 advisory committee comprised of representatives from the design and  
34 construction industry involved in public works contracting, personnel  
35 from the affected public agencies responsible for overseeing public  
36 works projects, the office of the superintendent of public instruction,  
37 and others at the department's discretion to provide advice on

1 implementing this chapter. Among other duties, the advisory committee  
2 shall make recommendations regarding an education and training process  
3 and an ongoing evaluation or feedback process to help the department  
4 implement this chapter.

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

7 **Sec. 7.** RCW 39.35D.070 and 2005 c 12 s 10 are each amended to read  
8 as follows:

9 A member of the design or construction teams may not be held liable  
10 for the failure of a major facility project to meet the LEED (~~(silver)~~)  
11 plus W standard or other (~~(LEED)~~) standard established for the project  
12 as long as a good faith attempt was made to achieve the (~~(LEED)~~)  
13 standard set for the project.

14 **Sec. 8.** RCW 39.35D.090 and 2005 c 12 s 13 are each amended to read  
15 as follows:

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

25 NEW SECTION. **Sec. 9.** (1) The state building code council must, in  
26 consultation with appropriate agencies, subject matter experts, and  
27 stakeholders:

28 (a) Review the state building code and identify: Existing barriers  
29 in the code to the use of wood and wood products; options to facilitate  
30 the greater use of wood and wood products; the safety, performance, and  
31 energy efficiency and embodied energy benefits, challenges, and any  
32 costs associated with each of those options; and make legislative  
33 recommendations; and

34 (b) Review the international green construction code and identify  
35 the benefits, challenges, and any costs to the state and its citizens



1 associated with its inclusion in the state building code; and make  
2 legislative recommendations regarding its potential inclusion in the  
3 state building code.

4 (2) The state building code council must provide a report to the  
5 appropriate committees of the senate and house of representatives that  
6 includes its findings and any recommendations by December 31, 2014.

7 (3) This section expires June 30, 2015.

8 NEW SECTION. **Sec. 10.** (1) The department of enterprise services  
9 must consult with the high-performance buildings advisory committee  
10 established under RCW 39.35D.060 and other appropriate agencies,  
11 subject matter experts, and stakeholders in developing the initial  
12 standard required under section 3 of this act. The department of  
13 enterprise services must submit the standard to the appropriate  
14 committees of the senate and house of representatives by December 31,  
15 2014. The legislature may review and, if desired, direct modifications  
16 by legislative enactment during the 2015 legislative session.

17 (2) This section expires December 31, 2015.

18 NEW SECTION. **Sec. 11.** Sections 2, 4, and 5 through 8 of this act  
19 take effect July 1, 2015.

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