

SENATE BILL REPORT

SB 5804

As of February 6, 2015

Title: An act relating to the procedure for adoption and amendment of the Washington state energy code.

Brief Description: Modifying the procedure for adoption and amendment of the Washington state energy code.

Sponsors: Senators Liias, Benton, Hasegawa, Dammeier and Angel.

Brief History:

Committee Activity: Government Operations & Security: 2/09/15.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Staff: Karen Epps (786-7424)

Background: State Building Code (Code). The State Building Code Council (Council) was established in 1974 to provide analysis and advice to the Legislature and the Office of the Governor on Code issues. The Council establishes the minimum building, mechanical, fire, plumbing, and energy code requirements in Washington by reviewing, developing, and adopting the Code. The Code sets forth requirements through the provision of building codes to promote the health, safety, and welfare of the occupants or users of buildings and structures throughout the state. The Council reviews, updates, and adopts a new Code every three years.

State Energy Code. The Code also includes the Washington State Energy Code (Energy Code), which is a state-written, state-specific code. The Energy Code provides a minimum level of energy efficiency, but allows flexibility in building design, construction, and heating equipment efficiencies. The Council must adopt state energy codes that require buildings constructed from 2013 through 2031 to move incrementally toward a 70-percent reduction in energy use by 2031. The Energy Code must consider regional climatic conditions. The Council may amend the Energy Code by rule if the amendments increase energy efficiency in the affected buildings. Substantial amendments to the Energy Code cannot be adopted more frequently than every three years.

The Administrative Procedure Act (APA). The APA establishes the general procedures for agency rulemaking and adjudicatory proceedings. The APA details requirements that must be

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satisfied in order for an agency to adopt a significant legislative rule. Significant legislative rules do not include emergency rules, procedural rules, interpretative rules, or rules adopted through expedited rulemaking.

The Regulatory Fairness Act (RFA). Under the RFA, an agency must develop a small business economic impact statement (SBEIS) if a rule it is adopting under the APA will impose more than minor costs on businesses in an industry, or if an agency is requested to do so by the Joint Administrative Rules Review Committee of the Legislature. If an SBEIS shows that a rule will have a disproportionate impact on small businesses, businesses with 50 or fewer employees, the agency must, where legal and feasible, reduce the costs imposed by the rule on small businesses. The SBEIS must list the steps taken to reduce the costs on small businesses or a reasonable justification for not doing so.

Summary of Bill: State Energy Code. The Energy Code for residential and nonresidential buildings is the 2012 Washington State Energy Code, as published by the International Code Council, Inc. and as amended by rule by the council. The Energy Code was based on the 2012 International Energy Conservation Code (IECC).

Amendments to the Energy Code for non-residential buildings may be adopted by the Council if they maintain and promote a competitive business climate based on an evaluation of economic, technical, and process factors. Any new measures, standards, or requirements adopted as amendments to the Energy Code must be based upon an analysis of and comments from owners and tenants on whether amendments are technically feasible, commercially available, and cost-effective. Substantial amendments to the Energy Code for nonresidential buildings may not be adopted more frequently than every three years.

Amendments to the Energy Code for residential buildings may be adopted if the amendments: increase the energy efficiency of typical, newly constructed residential buildings; maintain and promote a competitive business climate; and are technically feasible, commercially available, and cost effective to owners and tenants. Decisions to amend the Energy Code for new residential buildings must be made prior to December 15 of any year and cannot take effect before the end of the regular legislative session of the following year. Any disputed provision within an amendment presented to the Legislature must be approved by the Legislature before going into effect. A disputed provision is one that was adopted by the Council with less than a two-thirds majority vote. Substantial amendments to the Energy Code for residential buildings may not be adopted more frequently than every three years. In considering amendments to the Energy Code for residential buildings, the Council must establish and consult with a technical advisory committee that includes the following:

- representatives of appropriate state agencies;
- local governments;
- general contractors;
- building owners and managers;
- design professionals;
- utilities;
- manufacturers; and
- other interested parties.

Beginning with the development of the 2018 IECC, the Council must endeavor to reduce the number of state amendments made to the IECC, as adopted by the Council. The Council must advocate for and submit all proposed state amendments to the International Code Council during the IECC development process. The Council must consider the documentation and results of the IECC development process during the rulemaking process for the adoption of the new IECC to the Code.

Any person may propose an amendment to the Energy Code after the Council files a statement of inquiry in accordance with the APA. The proponent of a proposed amendment must indicate the amount of energy efficiency gained due to the proposed amendment and provide a cost-benefit analysis on the amendment. The proposal must specifically address whether it will increase or decrease the cost of construction and this information must be considered by the Council. Additionally, any proposal submitted that does not include the requisite cost information and percent of energy efficiency gained may not be considered by the Council. The Council, prior to filing notice of a proposed rule under the APA, must evaluate all proposed amendments for their technical feasibility and cost effectiveness according to national consensus standards. The purpose of the evaluation is to assess the impact of proposed amendments to the Energy Code.

Administrative Procedure Act. Amendments to the Energy Code, adopted by rule, for residential or nonresidential buildings constitute significant legislative rules.

The Regulatory Fairness Act. The Council must adopt rules consistent with the RFA. The Council must evaluate impacts of adopting the Energy Code on small businesses and reduce the costs imposed on small businesses.

Appropriation: None.

Fiscal Note: Requested on February 6, 2015.

Committee/Commission/Task Force Created: No.

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