
Environment & Energy Committee

HB 1257

Brief Description: Concerning energy efficiency.

Sponsors: Representatives Doglio, Tarleton, Lekanoff, Fitzgibbon, Dolan, Fey, Mead, Peterson, Kloba, Riccelli, Macri, Hudgins, Morris, Stanford, Appleton, Slatter, Tharinger, Jinkins, Pollet and Goodman; by request of Governor Inslee.

Brief Summary of Bill

- Authorizes a city, town, or county to adopt additional residential energy code requirements as developed by the State Building Code Council (Council).
- Requires the Council to develop rules for electric vehicle infrastructure that require electric vehicle charging capability at all new buildings.
- Requires the Department of Commerce (Department) to establish a State Energy Performance Standard for covered commercial buildings by July 1, 2020.
- Requires the Department to establish a State Energy Performance Standard Early Adoption Incentive Program.
- Establishes energy benchmarking requirements for covered commercial buildings.
- Establishes a Natural Gas Conservation and Renewable Energy Standard.
- Requires a gas company to provide an analysis of the cost of serving the expected energy requirements of customers by using natural gas, compared to the cost of serving the expected energy requirements of customers by using electricity, in any application for a certificate of public convenience and necessity.
- Establishes a societal cost of greenhouse gas emissions for the purposes of the Natural Gas Conservation and Renewable Energy Standard and certificates of public convenience and necessity.

Hearing Date: 1/29/19

Staff: Nikkole Hughes (786-7156).

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.

Background:

State Energy Code.

The State Energy Code (Code) is part of the State Building Code, which sets the minimum construction requirements for buildings in the state. The Code provides a maximum and minimum level of energy efficiency for residential buildings and the minimum level of energy efficiency for nonresidential buildings. The State Building Code Council (Council) maintains the Code. Unless otherwise amended by rule, the Code must reflect the 2006 edition.

The Code for residential structures preempts the residential energy code of each city, town, and county in Washington, unless the local jurisdiction's residential energy code exceeds the requirements of the Code and was adopted before March 1, 1990.

The Council reviews, updates, and adopts model state building codes every three years. The Code must be designed to:

- construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas (GHG) emission homes and buildings by the year 2031;
- require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and
- allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

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 Code must consider regional climatic conditions. The Council may amend the Code by rule if the amendments increase energy efficiency in the affected buildings.

Building Requirements for Electric Vehicle Infrastructure.

The Council must adopt rules for electric vehicle infrastructure requirements. Rules adopted by the Council must consider applicable national and international standards.

Energy Benchmarking Requirements.

An electric or gas utility that serves more than 25,000 customers in the state must maintain records of the energy consumption data of all nonresidential and certain public agency buildings to which the utility provides service. This data must be maintained in a format that is compatible with the United States Environmental Protection Agency's Energy Star Portfolio Manager, which is an Internet-based program that allows users to track their energy consumption data and to benchmark the energy use of their buildings against comparable buildings.

Department of Commerce.

The Department of Commerce (Department) must develop and implement a strategic plan for enhancing energy efficiency in and reducing GHG emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the Code in achieving the goal of building zero fossil-fuel GHG emission homes and buildings by the year 2031. The strategic plan must identify barriers to achieving net zero energy use in homes and buildings and identify

how to overcome these barriers in future Code updates and through complementary policies.

Utilities and Transportation Commission.

The Utilities and Transportation Commission (UTC) regulates the rates, services, and practices of investor-owned utilities and transportation companies, including electrical companies, natural gas companies, and telecommunications companies. The UTC is required to ensure that rates charged by these companies are "fair, just, and reasonable."

Certificates of Public Convenience and Necessity.

A gas company may not operate a gas plant for hire in the state without having first obtained from the UTC a certificate declaring that public convenience and necessity requires or will require such operation and setting forth the area or areas within which service is to be rendered.

"Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat, or power.

Summary of Bill:

State Energy Code.

The State Energy Code (Code) is no longer the maximum energy code allowed for residential buildings in each city, town, and county. A city, town, or county may adopt additional residential energy code requirements as developed by the State Building Code Council (Council).

By December 1, 2019, the Council must adopt the following optional efficiency appendices and include them in the Code for residential buildings:

- an optional appendix providing energy code provisions that will reduce energy use by an additional 8 to 10 percent compared to the minimum code; and
- an optional appendix providing energy code provisions that will reduce energy use by an additional 16 to 20 percent compared to the minimum code.

The Council must amend the two optional appendices whenever it amends the minimum code requirements in order to achieve the incremental savings required by 2031.

Building Requirements for Electric Vehicle Infrastructure.

The Council must develop rules for electric vehicle infrastructure that require electric vehicle charging capability at all new buildings.

State Energy Performance Standard.

By July 1, 2020, the Department must establish by rule a State Energy Performance Standard (Standard) for covered commercial buildings. "Covered commercial building" means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area. The Department must provide the owners of covered buildings with notification of compliance requirements no later than July 1, 2021.

In developing the Standard, the Department must seek to maximize reductions in greenhouse gas (GHG) emissions from the building sector. The Standard must include energy use intensity

targets by building type and methods of conditional compliance that include an energy management plan, operations and maintenance program, energy efficiency audits, and investments in energy efficiency measures designed to meet the targets. The Department must update the Standard by July 1, 2029, and every five years thereafter.

A building owner of a covered commercial building must meet the following compliance schedule:

- June 1, 2026, for a building with more than 220,000 gross square feet;
- June 1, 2027, for a building with more than 90,000 gross square feet but less than 220,001 gross square feet; and
- June 1, 2028, for a building with more than 50,000 gross square feet but less than 90,001 gross square feet.

A covered commercial building is exempt from the Standard if it meets at least one of several listed criteria, including:

- the building did not have a certificate of occupancy or temporary certificate of occupancy for all 12 months of the calendar year prior to the building owner compliance schedule;
- the building is an agricultural structure; or
- the primary use of the building is manufacturing or other industrial purposes.

The Department may impose an administrative penalty upon a building owner for failing to submit documentation demonstrating compliance with the requirements of the Standard. The penalty may not exceed \$5,000 plus an amount based on the duration of any continuing violation. The additional amount for a continuing violation may not exceed a daily amount equal to \$1 per year per gross square foot of floor area. The Department may by rule adjust the maximum penalty rates for inflation.

State Energy Performance Standard Early Adoption Incentive Program.

The Department must establish a State Energy Performance Standard Early Adoption Incentive Program (Incentive Program).

An eligible building owner may submit an application to the Department for an incentive payment in a form and manner prescribed by the Department. The application must be submitted in accordance with the following schedule:

- beginning January 1, 2021, through June 1, 2025, for a building with more than 220,000 gross square feet;
- beginning January 1, 2021, through June 1, 2026, for a building with more than 90,000 gross square feet but less than 220,001 gross square feet; and
- beginning January 1, 2021, through June 1, 2027, for a building with more than 50,000 gross square feet but less than 90,001 gross square feet.

An eligible building owner that demonstrates early compliance with the applicable energy use intensity target under the Standard may receive a base incentive payment of \$0.50 per square foot of floor area. An eligible building owner that qualifies for the base incentive and demonstrates compliance with the applicable energy use intensity target for the next three consecutive years may receive an additional incentive payment of \$0.35 per square foot of floor area.

The Department may not issue a certification for an incentive application to an eligible building owner if doing so is likely to result in total incentive payments in excess of \$75 million.

Each qualifying utility must administer incentive payments for the Incentive Program. Any thermal energy company, electric utility, or gas company not otherwise required to administer incentive payments may voluntarily participate by providing notice to the Department in a form and manner prescribed by the Department.

Upon receiving notification from the Department that a building owner has qualified for an incentive payment, each entity that administers incentive payments must make incentive payments to its customers who are eligible building owners of covered commercial buildings or multifamily residential buildings who qualify for the Incentive Program. When a building is served by more than one entity administering incentive payments, incentive payments must be proportional to the energy use intensity reduction of the participating entities' fuel.

A light and power business or a gas distribution business that participates in the Incentive Program is allowed a credit against its public utility tax (PUT) obligation in an amount equal to:

- incentive payments made in any calendar year in accordance with the Incentive Program; and
- documented administrative costs not to exceed five percent of the incentive payments.

The PUT credit expires June 30, 2032.

Energy Benchmarking Requirements.

An electric or gas utility that is not a qualifying utility must either offer the upload service to the United States Environmental Protection Agency's Energy Star Portfolio Manager (Portfolio Manager) or provide customers who are building owners of covered commercial buildings with consumption data in an electronic document formatted for direct upload to the Portfolio Manager. Within 60 days of receiving a written or electronic request and authorization of a building owner, the utility must provide the building owner with monthly energy consumption data as required to benchmark the specified building.

For any covered commercial building with three or more tenants, an electric or gas utility that is not a qualifying utility must, upon request of the building owner, provide the building owner with aggregated monthly energy consumption data without requiring prior consent from tenants.

Qualifying utilities must ensure that all data provided in compliance with energy benchmarking requirements does not contain personally identifiable information or customer-specific billing information about tenants of a covered commercial building.

Natural Gas Conservation and Renewable Energy Standard.

Each gas company must identify and acquire all conservation measures that are available and cost-effective. Each company must establish an acquisition target every two years and must demonstrate that the target will result in the acquisition of all resources identified as available and cost-effective. The cost-effectiveness analysis must include the societal costs of GHG emissions. The targets must be based on a conservation potential assessment prepared by an independent third party and approved by the UTC. Conservation targets must be approved by order of the UTC. The initial conservation target must take effect by 2022.

The UTC must establish for each gas company a schedule of annual minimum renewable natural gas acquisition targets as a percentage of the company's total sales to retail customers. In establishing the annual targets, the commission must consider the state's GHG emissions reductions goals, the societal costs of GHG emissions, and other potential end uses for renewable natural gas that are in the public interest, and the potential costs of renewable natural gas relative to fossil fuel natural gas. The initial renewable natural gas target must take effect by 2022. "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

Certificates of Public Convenience and Necessity.

In any application for a certificate of public convenience and necessity, a gas company must provide an analysis of the cost of serving the expected energy requirements of customers by using natural gas, compared to the cost of serving the expected energy requirements of customers by using electricity. The cost-effectiveness analysis must be conducted using methods comparable to those required by the UTC for purposes of integrated resource planning and must reflect the societal costs of GHG emissions. The UTC may not issue a certificate of public convenience and necessity unless the gas company demonstrates that natural gas is cost-effective relative to electricity.

Societal Costs of Greenhouse Gas Emissions.

For the Natural Gas Conservation and Renewable Energy Standard and certificates of public convenience and necessity, the cost of GHG emissions resulting from the use of natural gas, including the effect of emissions occurring in the gathering, transmission, and distribution of natural gas to the end user, is equal to the cost per metric ton of carbon dioxide emissions, using the 2.5 percent discount rate, listed in Table 2, Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases of the United States Government, August 2016. The UTC must adjust the cost to reflect the effect of inflation.

Each gas company must report to the UTC each year an estimate of the GHG emissions resulting from natural gas and renewable natural gas delivered to its customers. The report must assess each company's associated emissions relative to a proportionate share of the state's GHG emissions reduction goal. The UTC must report an assessment to the Governor every five years on whether the gas companies are on track to meet a proportionate share of the state's GHG emissions reduction goal.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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