

HOUSE BILL REPORT

ESHB 1770

As Passed House:
February 12, 2022

Title: An act relating to strengthening energy codes.

Brief Description: Strengthening energy codes.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Duerr, Ramel, Berry, Dolan, Fitzgibbon, Ryu, Wylie, Berg, Davis, Goodman, Macri, Peterson, Slatter, Valdez, Pollet, Hackney, Kloba and Frame; by request of Office of the Governor).

Brief History:

Committee Activity:

Local Government: 1/19/22, 1/21/22 [DPS].

Floor Activity:

Passed House: 2/12/22, 51-47.

Brief Summary of Engrossed Substitute Bill

- Updates the minimum State Energy Code requirements for residential and nonresidential construction.
- Requires new buildings to be net-zero ready.
- Requires the State Building Code Council to adopt a statewide residential reach code and requires the Department of Commerce to develop rulemaking documents and a proposal covering the technical provisions.
- Preempts local residential codes with the Washington State Energy Code and the Statewide Residential Reach Code.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Pollet, Chair; Duerr, Vice Chair; Berg and Senn.

Minority Report: Do not pass. Signed by 3 members: Representatives Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Robertson.

Staff: Elizabeth Allison (786-7129).

Background:

The Washington 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 the minimum and maximum levels 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 the State of 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 new 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 a Code that requires 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.

Residential and nonresidential construction permitted under the 2031 Code must achieve a 70 percent reduction in annual net energy consumption using the adopted 2006 Code as a baseline.

A reach code is an energy code that goes beyond the state minimum requirements for energy use.

Summary of Engrossed Substitute Bill:

Residential and nonresidential construction must meet the following energy requirements:

- a reduction of least 70 percent in annual net energy consumption under the residential and nonresidential energy codes that area adopted by the Council by December 1, 2031, using the adopted 2006 Code as a baseline; and
- new buildings must be net-zero ready, including a reduction of at least 80 percent in annual net energy consumption using the adopted 2006 Code as a baseline. These buildings must also include wiring for electrical raceways and designated space for solar equipment for photovoltaic panel installation under the residential and nonresidential state energy codes that are adopted by the Council by December 1, 2034. The 80 percent reduction requirement does not apply to the increased load for electronic vehicle charging.

The Council must include exemptions for photovoltaic panel installation readiness for construction sites or buildings that do not have adequate solar exposure to justify the installation of solar ready measures.

The Council must define and include net-zero ready measures in the Code adoption process.

Cities and counties must enforce the Code for residential buildings or adopt the statewide residential reach code. The reach code may not require more annual renewable production than a residential building is predicted to use. Any local residential energy code is preempted.

The Council must adopt by rule a statewide residential reach code for optional adoption and enforcement by any city or county. The statewide residential reach code must achieve the 70 percent reduction in energy consumption and greenhouse gas emissions required in the 2030 Code for residential buildings in incremental steps by the 2027 energy code. The Department of Commerce must develop a proposal covering the technical provisions of the reach code and certain rulemaking documents. The Council must adopt the Statewide Residential Reach Code as an appendix to the 2021 Residential Energy Code to be effective by July 1, 2024.

Any changes to the Code for residential buildings requires a home affordability cost analysis provided by the Council to determine whether the changes increase or decrease the cost of accessing housing. The council is authorized to contract with a public or private organization to conduct the analysis.

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.

Staff Summary of Public Testimony:

(In support) The bill aims to reduce electricity and gas demands on utilities. It builds on a successful existing framework. Local governments have the option to reach a step ahead and adopt the residential reach code. The Statewide Residential Reach Code goes beyond the standard code as is currently allowed for commercial buildings. Input from stakeholders suggested one statewide reach code for counties and cities would limit the confusion of having multiple reach codes. Buildings last from 50 to 100 years, and The Legislature needs to plan for that lifespan.

The building sector is the second largest source of greenhouse gas emissions. Unlike other sectors, such emissions from the building industry are actually increasing. Buildings need to be energy efficient and minimize greenhouse gas emissions. State law already requires a 70 percent reduction beginning in 2031. This bill focuses on what is next and requires all new construction to achieve an 80 percent reduction in emissions and to be ready for solar panels by 2035. Additionally, the bill authorizes local governments to adopt optional reach code.

The Code is by far the most effective tool for buildings to be energy efficient. The bill would be simple to enforce and would add no work for the Council. Energy-efficient technology creates new jobs for workers and provides income and sales tax for cities. Business as usual is no longer good enough. The bill will impact the cost of building but the cost will be much lower than energy retrofits to existing buildings. Currently, cities are not permitted to go beyond state minimum requirements for energy use. This bill creates parity with the commercial building reach code by allows local jurisdictions to enact a residential reach code. There isn't time to wait until 2050 to reduce greenhouse gas emissions.

(Opposed) A primary concern of the bill is the timeliness. There was a proviso agreement for a Utilities and Transportation Commission study on natural gas reduction. The Legislature should prioritize the use of that data before making comprehensive changes. A Statewide Residential Reach Code leads to two competing codes for construction. The bill is overly prescriptive and makes assumptions about technology that are not verified. There needs to be more information to make changes work. A more stringent energy code should be tabled until the housing crisis is resolved. Builders are having problems getting supplies after the last building code update and increase in building materials. The new requirements would be difficult and costly to source and install. The bill might support reaching environmental goals but there may be consequences for first-time home buyers. There are concerns about how the requirements of the bill would impact system reliability and electric grid reliability.

(Other) The bill would not improve carbon dioxide reductions in Washington. The economic cap and trade system has already been adopted, and the purpose was to move away from an ad hoc sector by sector approach and focus on an economy-wide approach. The result is that even if this bill is not passed, the State of Washington will still meet its decarbonization goals by 2050. This bill adds nothing but expense. Western Washington is

the worst place in the United States outside of Alaska for rooftop solar panels. The result of this bill will be all new construction wired for solar panels with only the wealthy able to actually install solar panels. Lower income families will be the ones paying without receiving any benefit.

Persons Testifying: (In support) Representative Davina Duerr, prime sponsor; Anna Lising, Governor's Office; Emily Salzberg, Department of Commerce; Ty Stober, City of Vancouver; Jeni Woock, City of Gig Harbor; Chris Roberts, City of Shoreline; Deepa Sivarajan, Climate Solutions; and Duane Jonlin, City of Seattle.

(Opposed) Nicolas Garcia, Washington Public Utility Districts Association; Neil Hartman, Washington Association of the United Association of Plumbers, Pipefitters and Heating, Ventilation, Air Conditioning, and Refrigeration Service Technicians; and Alex Hur, Master Builders Association of King and Snohomish Counties.

(Other) Todd Myers, Washington Policy Center.

Persons Signed In To Testify But Not Testifying: Amy Wheelless, Northwest Energy Coalition; Tom Balderston, Balderston Associates; Bill Will, Washington Solar Energy Industries Association; Matthew Hepner, International Brotherhood of Electrical Workers; Jeff Pack; Carolyn Logue, Northwest Hearth, Patio and Barbecue Association and Washington Air Conditioning Contractors Association; Dan Kirschner, Northwest Gas Association; Peter Godlewski, Association of Washington Business; Jan Himebaugh, Building Industry Association of Washington; and Jeanette McKague, Washington Realtors.