

FINAL BILL REPORT

SSB 5722

C 177 L 22
Synopsis as Enacted

Brief Description: Reducing greenhouse gas emissions in buildings.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Nguyen, Lias, Lovelett, Nobles, Pedersen, Saldaña and Stanford; by request of Office of the Governor).

Senate Committee on Environment, Energy & Technology
Senate Committee on Ways & Means
House Committee on Environment & Energy
House Committee on Appropriations

Background: Department of Commerce. The Department of Commerce (Commerce) is the state agency responsible for implementing, administering, and monitoring the state's energy use and supply. Commerce develops and implements a strategic plan for enhancing energy efficiency in and reducing greenhouse gas (GHG) emissions from homes, buildings, districts, and neighborhoods.

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. The Council reviews, updates, and adopts model state building codes every three years. The Council must adopt 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.

State Energy Performance Standard. The Legislature enacted the Clean Buildings Act in 2019, which required Commerce to establish by rule state energy performance standards

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.

(Standard) for covered commercial buildings. Covered commercial buildings include those where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area.

The Standard seeks to maximize reductions in GHG emissions from the building sector. The Standard includes 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.

Commerce 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. Commerce may by rule, adjust the maximum penalty rates for inflation.

Early Adopter Incentive Program. The Standard includes an early adopter incentive program for covered building owners who comply with the Standard before the required date. Covered building owners can receive a base incentive payment of \$0.85 per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces. Commerce may not approve incentive payments that exceed \$75,000,000.

Summary: Energy Management and Benchmarking Requirements. By December 1, 2023, Commerce must adopt state energy management and benchmarking requirements to include tier 2 covered buildings. Adopted requirements must be consistent with the Standard for covered commercial buildings. A small business economic impact statement must be included as part of the rule making process. Commerce must provide a support program to building owners including certain elements such as outreach and informational materials. Commerce is also authorized to establish a tiered incentive program to supplement the cost to the building owner or tenant to implement the requirements. Multifamily building owners willing to commit to antidisplacement provisions may receive enhanced incentive payments.

Commerce must notify tier 2 building owners with the requirements by July 1, 2025. Tier 2 covered building owners must submit reports with their compliance plans to Commerce by July 1, 2027. Every five years thereafter, tier 2 covered building owners must submit a report to Commerce detailing their compliance with the requirements adopted by Commerce. Reports must include energy management plans, operations and maintenance plans, and energy use analysis.

By July 1, 2029, Commerce must evaluate benchmarking data to determine energy use and greenhouse-gas emissions averages by building type. Commerce must submit a report to the Legislature and the Governor by October 1, 2029, outlining recommendations for cost-

effective building performance standards for tier 2 covered buildings, the estimated costs for building owners to implement the Standards, and anticipated implementation challenges.

Penalties. Commerce is authorized to impose a maximum administrative penalty of \$0.30 per square foot of floor area if tier 2 building owners fail to submit documentation demonstrating their compliance with the requirements adopted. Commerce must include exemptions for financial hardship and an appeals process for administrative determinations, including penalties.

Penalty funds collected must be deposited into the low-income weatherization and structural rehabilitation assistance account. Expenditures made with these funds must be reinvested into the state energy performance standard program to support compliance with the Standard.

Energy Performance Standards. Commerce must adopt rules to include tier 2 covered buildings in the Standard by December 31, 2030. Commerce must include a small business economic impact statement as part of the rule making. The rules may not take effect before the conclusion of the 2031 legislative session.

Early Adopter Incentive Program. Tier 2 eligible building owners must be included in the early adopter incentive program. Tier 2 eligible building owners may receive a base incentive payment of \$0.30 per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces. An eligible owner of a multifamily residential building greater than 50,000 gross square feet, excluding the parking area, may receive a base incentive payment of \$0.85 per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces.

Definitions. Tier 1 covered buildings include buildings where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area.

Tier 2 covered buildings include multifamily residential, nonresidential, hotel, motel, and dormitory floor areas that are greater than 20,000 square feet and less than 50,000 square feet, excluding the parking garage area. Tier 2 covered buildings also include multifamily residential buildings where the floor areas are equal to or greater than 50,000 square feet, excluding the parking garage area.

Votes on Final Passage:

Senate	27	22	
House	53	45	(House amended)
Senate	28	21	(Senate concurred)

Effective: June 9, 2022