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**SUBSTITUTE SENATE BILL 6291**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senate State Government & Elections (originally sponsored by Senators L. Wilson, Lovick, Dozier, and Short)

AN ACT Relating to streamlining the state building code council operating procedures by establishing criteria for statewide amendments to the state building code; amending RCW 19.27.031, 19.27.070, 19.27.074, 19.27A.025, 19.27A.045, and 19.27.015; and adding new sections to chapter 19.27 RCW.

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

**Sec.**  RCW 19.27.031 and 2018 c 189 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, there shall be in effect in all counties and cities the state building code which shall consist of the following model codes which are hereby adopted by reference:

((~~(1)~~))(a)(i) The International Building Code, published by the International Code Council, Inc.;

((~~(b)~~)) (ii) The International Residential Code, published by the International Code Council, Inc.;

((~~(2)~~)) (b) The International Mechanical Code, published by the International Code Council, Inc., except that the standards for liquefied petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquefied Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code);

((~~(3)~~)) (c) The International Fire Code, published by the International Code Council, Inc., including those standards of the National Fire Protection Association specifically referenced in the International Fire Code: PROVIDED, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying handheld candles;

((~~(4)~~)) (d) Portions of the International Wildland Urban Interface Code, published by the International Code Council Inc., as set forth in RCW 19.27.560;

((~~(5)~~)) (e) Except as provided in RCW 19.27.170, the Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That any provisions of such code affecting sewers or fuel gas piping are not adopted;

((~~(6)~~)) (f) The rules adopted by the council establishing standards for making buildings and facilities accessible to and usable by individuals with disabilities or elderly persons as provided in RCW 70.92.100 through 70.92.160; and

((~~(7)~~)) (g) The state's climate zones for building purposes are designated in RCW 19.27A.020(3) and may not be changed through the adoption of a model code or rule.

(2) In case of conflict among the codes enumerated in subsection((~~s~~)) (1)((~~, (2), (3), (4), and (5)~~)) of this section, the first named code shall govern over those following.

(3)(a) The model codes enumerated in this section shall be adopted, amended, or repealed by the council as provided in RCW 19.27.074 and sections 6 through 8 of this act in a three-year state building code adoption cycle. The state building code adoption cycle follows the adoption cycle of the model codes. Substantive changes to the state building code may only be adopted within the three-year cycle except as provided in section 6 of this act.

(b) The council shall review the most recent editions of each of the model codes enumerated in subsection (1) of this section and take action on adoption no later than 30 months after the date of publication of each such code. The "date of publication" is the date of publication printed in each model code. If only a month and year are shown, the date of publication for such code shall be the last day of the month shown.

(4) The council may initiate and implement an interim code adoption cycle for all Washington state building codes not earlier than 12 months nor later than 18 months from the effective date of the codes adopted pursuant to subsection (3) of this section as provided in sections 6 through 8 of this act.

(5) Petitions for emergency statewide amendments to the building code may be submitted, considered, and adopted at any time in accordance with RCW 34.05.350 and sections 6 through 8 of this act.

(6) Off-cycle amendments to any of the Washington state building codes may be initiated and implemented at any time if directed by the legislature.

(7) The council shall solicit input from first responders to ensure that firefighter safety issues are addressed during the code adoption process.

(8) The council may issue opinions relating to the codes at the request of a local official charged with the duty to enforce the enumerated codes.

**Sec.**  RCW 19.27.070 and 2018 c 207 s 3 are each amended to read as follows:

There is hereby established in the department of enterprise services a state building code council, to be appointed by the governor.

(1) The state building code council shall consist of ((~~fifteen~~)) 15 members:

(a) Two members must be county elected legislative body members or elected executives;

(b) Two members must be city elected legislative body members or mayors;

(c) One member must be a local government building code enforcement official;

(d) One member must be a local government fire service official;

(e) One member must be a person with a physical disability and shall represent the disability community;

(f) One member, who is not eligible for membership on the council in any other capacity, and who has not previously been nominated or appointed to the council to represent any other group, must represent the general public; and

(g) Seven members must represent the private sector or professional organizations as follows:

(i) One member shall represent general construction, specializing in commercial and industrial building construction;

(ii) One member shall represent general construction, specializing in residential and multifamily building construction;

(iii) One member shall represent the architectural design profession;

(iv) One member shall represent the structural engineering profession;

(v) One member shall represent the mechanical engineering profession;

(vi) One member shall represent the construction building trades;

(vii) One member shall represent manufacturers, installers, or suppliers of building materials and components.

(2) At least six of these ((~~fifteen~~)) 15 members shall reside east of the crest of the Cascade mountains.

(3) The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership. Ex officio members shall not be counted for purposes of quorums, calling special meetings, or voting thresholds.

(4)(a) Terms of office shall be for three years, or for so long as the member remains qualified for the appointment.

(b) The council shall elect a member to serve as chair of the council for one-year terms of office.

(c) Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment.

(d) Any member who is appointed to represent a specific private sector industry must maintain sufficiently similar private sector employment or circumstances throughout the term of office to remain qualified to represent the specified industry. Retirement or unemployment is not cause for termination. However, if a councilmember appointed to represent a specific private sector industry enters into employment outside of the industry, or outside of the private sector, he or she has been appointed to represent, then he or she must be removed from the council.

(e) Any member who no longer qualifies for appointment under this section may not vote on council actions, but may participate as an ex officio, nonvoting member until a replacement member is appointed. A member must notify the council staff and the governor's office within ((~~thirty~~)) 30 days of the date the member no longer qualifies for appointment under this section. The governor shall appoint a qualified replacement for the member within ((~~sixty~~)) 60 days of notice.

(f) Each of the 15 councilmembers appointed by the governor shall hold office until the appointment of a successor, not to exceed 90 days after the term has expired. If no appointment is made to replace the member after 90 days, the member's position shall become vacant. Vacant positions shall not be counted for purposes of quorums, calling special meetings, or voting thresholds.

(5) Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests identified in this section. The governor shall select appointees to represent private sector industries from a list of three nominations provided by the largest trade associations representing the industry((~~,~~)) unless no names or insufficient qualifying names are put forth by the trade associations. Within three days after a councilmember's term has expired, the council must post a message on the council website informing the stakeholders and members of the public that there is an open council position. The trade associations must provide nominations no later than 30 days after a council position is open. The governor shall appoint a qualified replacement within 60 days after the nominations are received.

(6) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) Within one year of employment or appointment, employees of the state building code council and members of the state building code council must receive training on ethics in public service including, but not limited to, provisions of chapter 42.52 RCW.

(8) For purposes of this section, a "professional organization" includes an entity whose members are engaged in a particular lawful vocation, occupation, or field of activity of a specialized nature, including but not limited to associations, boards, educational institutions, and nonprofit organizations.

**Sec.**  RCW 19.27.074 and 2018 c 207 s 4 are each amended to read as follows:

(1) The state building code council shall:

(a) Adopt and maintain the codes to which reference is made in RCW 19.27.031 in a status which is consistent with the state's interest as set forth in RCW 19.27.020. In maintaining these codes, the council shall regularly review updated versions of the codes referred to in RCW 19.27.031 and other pertinent information and shall amend the codes pursuant to RCW 19.27.031 and sections 6 through 8 of this act as deemed appropriate by the council;

(b) Approve or deny all county or city amendments to any code referred to in RCW 19.27.031 to the degree the amendments apply to single-family or multifamily residential buildings;

(c) As required by the legislature, develop and adopt any codes relating to buildings; and

(d) Approve a proposed budget for the operation of the state building code council to be submitted by the department of enterprise services to the office of financial management pursuant to RCW 43.88.090.

(2) The state building code council may:

(a) Appoint technical advisory ((~~committees which may include members of the council~~)) groups in accordance with section 7 of this act;

(b) Approve contracts for services; and

(c) Conduct research into matters relating to any code or codes referred to in RCW 19.27.031 or any related matter.

(3) The department of enterprise services, with the advice and input from the members of the building code council, shall:

(a) Employ a managing director of the council, and permanent and temporary staff ((~~and contract for services~~)) to perform all duties necessary to carry out the intent and purposes of this chapter and chapter 19.27A RCW;

(b) Contract with an independent, third-party entity to perform ((~~a Washington energy code baseline economic analysis and economic analysis of code proposals~~)) comparative economic and energy analyses of a proposed Washington energy code and prior versions of the Washington energy code, including compliance with RCW 34.05.328 and 19.27A.160; and

(c) Provide all administrative and information technology services required for the building code council.

(4) Rule-making authority as authorized in this chapter resides within the building code council.

(5)(a) All meetings of the state building code council, its standing committees, ad hoc committees, and technical advisory groups shall be open to the public under the open public meetings act, chapter 42.30 RCW. All actions of the state building code council which adopt or amend any code of statewide applicability shall be pursuant to the administrative procedure act, chapter 34.05 RCW.

(b) All council decisions relating to the codes enumerated in RCW 19.27.031 shall require approval by at least a majority of the voting members of the council.

(c) All decisions to adopt ((~~or~~)), amend, or repeal codes of statewide application through a three-year code adoption cycle shall be made prior to December 1st of any year and shall not take effect before the end of the regular legislative session in the next year.

**Sec.**  RCW 19.27A.025 and 2019 c 285 s 17 are each amended to read as follows:

(1) The minimum state energy code for new and renovated nonresidential buildings, as specified in this chapter, shall be the Washington state energy code, 1986 edition, as amended. The state building code council may, by rule adopted pursuant to chapter 34.05 RCW, RCW 19.27.031, and sections 6 through 8 of this act, amend that code's requirements for new nonresidential buildings provided that:

(a) Such amendments increase the energy efficiency of typical newly constructed nonresidential buildings; and

(b) Any new measures, standards, or requirements adopted must be technically feasible, commercially available, and developed to yield the lowest overall cost to the building owner and occupant while meeting the energy reduction goals established under RCW 19.27A.160.

(2) In considering amendments to the state energy code for nonresidential buildings, the state building code council shall establish and consult with a technical advisory ((~~committee~~)) group in accordance with section 7 of this act including representatives of appropriate state agencies, local governments, general contractors, building owners and managers, design professionals, utilities, and other interested and affected parties.

(3) Decisions to amend the Washington state energy code for new nonresidential buildings shall be made prior to December 15th of any year and shall not take effect before the end of the regular legislative session in the next year. Any disputed provisions within an amendment presented to the legislature shall be approved by the legislature before going into effect. A disputed provision is one which was adopted by the state building code council with less than a two-thirds ((~~majority~~)) vote of the voting members. Substantial amendments to the code shall be adopted no more frequently than every three years except as allowed in RCW 19.27.031 and section 6 of this act.

**Sec.**  RCW 19.27A.045 and 1990 c 2 s 5 are each amended to read as follows:

The state building code council shall maintain the state energy code for residential structures in a status which is consistent with the state's interest as set forth in section 1, chapter 2, Laws of 1990. In maintaining the Washington state energy code for residential structures, beginning in 1996 the council shall review the Washington state energy code every three years. After January 1, 1996, by rule adopted pursuant to chapter 34.05 RCW, RCW 19.27.031, and sections 6 through 8 of this act, the council may amend any provisions of the Washington state energy code to increase the energy efficiency of newly constructed residential buildings. Decisions to amend the Washington state energy code for residential structures shall be made prior to December 1 of any year and shall not take effect before the end of the regular legislative session in the next year.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27 RCW to read as follows:

(1) Adoption, amendment, or repeal of the state building code or statewide amendments to the state building code as defined in RCW 19.27.031 must meet the following criteria:

(a) Substantive updates to the state building code shall occur only once during the three-year state building code adoption cycle as described in RCW 19.27.031(3). No substantive provision may be adopted, amended, or repealed except during the three-year code adoption cycle, or as provided in (c) or (d) of this subsection. Except for the energy codes adopted pursuant to chapter 19.27A RCW, changes proposed to be adopted during the three-year code adoption cycle must meet at least one of the following criteria:

(i) The amendment is necessary for the preservation of the public health, safety, or general welfare;

(ii) The amendment clarifies the intent or application of the code;

(iii) The amendment is necessary for consistency with state or federal laws and regulations;

(iv) The amendment is directed by the legislature or is part of fulfilling a legislatively directed request;

(v) The amendment corrects errors and omissions; or

(vi) The amendment eliminates an obsolete or conflicting regulation.

(b) An interim code adoption cycle as outlined in RCW 19.27.031(4) shall be initiated and implemented by the council if a majority of the council voting membership determines an interim code adoption cycle is needed to correct errors and omissions, or eliminate obsolete, conflicting, redundant, or unnecessary regulations.

(c)(i) The council may adopt emergency amendments to the code at any time under the following conditions:

(A) The amendment is necessary for the preservation of the public health, safety, or general welfare, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; or

(B) The amendment is necessary for consistency with state or federal laws and regulations.

(ii) The council may not act on a petition for emergency statewide amendments at the meeting when the petition is introduced.

(iii) The council may accept a petition for emergency statewide amendments only when the petition provides a concise statement of the reasons for a finding that an emergency basis exists, and the council approves a finding that such an emergency basis exists by a two-thirds vote of voting members. The approval of emergency amendments requires a majority vote of the voting members.

(d) The council may adopt, amend, or repeal the state building code or code sections at the direction of the legislature at any time.

(2) Any person or entity may submit to the council a petition in writing for statewide amendments within the time periods established by the council. The petition for statewide amendment must comply with format and content requirements approved by the council.

(3) Incomplete petitions for statewide amendments or petitions that exceed the specific delegation of authority provided by the legislature shall not be considered by the council for action.

(4) The council shall approve the referral of a statewide amendment to a standing committee or technical advisory group.

(5) The council shall develop a process for council meetings that allows members of the public to understand amendments being proposed for adoption. The process shall include requirements for modifications to proposed rule text to be in writing, specify the reason for the amendment, and be available to the council and the members of the public at least seven days prior to a vote on final amendment adoption. The council shall adopt rules that encourage councilmembers and technical advisory group members to make proposed amendments and text changes available to other members and the public at least 48 hours prior to the meeting at which they will be discussed.

(6) The council must adopt policies and procedures for the adoption, amendment, or repeal of the state building code that comply with the rule-making requirements in chapter 34.05 RCW and this act.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27 RCW to read as follows:

(1) The state building code council may appoint technical advisory groups to review petitions for statewide amendments as authorized in this chapter and chapter 19.27A RCW.

(a) A technical advisory group may include one voting councilmember.

(b) A technical advisory group must consist of subject matter experts as designated by the council. A subject matter expert is defined as an individual who by education, training, or experience is a recognized expert on a particular subject, topic, or system.

(c) A technical advisory group member may be removed by the state building code council if the member no longer meets the qualifications necessary to fill the position.

(d) Three consecutive absences of a technical advisory group member from meetings of the technical advisory group are grounds for the state building code council to designate the member's status as ex officio, until a reappointment is made. Ex officio members are not considered when determining a quorum.

(e) Within three months of appointment, technical advisory group members must receive training on ethics in public service including, but not limited to, provisions of chapter 42.52 RCW.

(f) Technical advisory group members and the industry or stakeholder groups they are representing must be posted on the council website.

(2) Any person who wishes to be appointed to serve on a technical advisory group must submit an application that satisfies the requirements for an application set by the council. Any application for such appointment must be approved or denied within 30 days after the closing of the application submittal period.

(3) A petition for an amendment referred to a technical advisory group must be approved by a majority of the technical advisory group voting members to be taken up for consideration by the state building code council.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27 RCW to read as follows:

Following the close of the public comment period and any public hearing required by chapter 34.05 RCW, the state building code council shall approve or disapprove the final adoption or amendment of codes of statewide application.

(1) Proposals must meet one or more of the criteria in section 6 of this act to be considered for approval.

(2) Proposals that do not meet these criteria may be considered in a future three-year code adoption cycle.

(3) The council may not adopt a proposal that is substantially different from the proposal made available for public testimony except as provided by RCW 34.05.340.

**Sec.**  RCW 19.27.015 and 2018 c 207 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure may not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor may it be a place used by the public.

(2) "Approval," "approved," or "adopted," unless otherwise defined or otherwise indicated by context, means an affirmative vote by a majority of voting members of the council, committee, or advisory group present at the time of the vote.

(3) "City" means a city or town.

((~~(3)~~)) (4) "Commercial building permit" means a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building not covered by a residential building permit.

((~~(4)~~)) (5) "Emergency statewide amendment" means any proposed statewide amendment meeting the criteria in RCW 34.05.350. A rule shall be considered an emergency rule if the council, for good cause, finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to public interest.

(6) "Model codes" means the codes developed by the model code organizations and adopted by reference in RCW 19.27.031.

(7) "Model code organizations" means the national code-adopting organizations that develop the model codes, as defined in this section, such as the international code council, international association of plumbing and mechanical officials, and national fire protection association.

(8) "Multifamily residential building" means common wall residential buildings that consist of four or fewer units, that do not exceed two stories in height, that are less than ((~~five thousand~~)) 5,000 square feet in area, and that have a one-hour fire-resistive occupancy separation between units.

((~~(5)~~)) (9) "Off-cycle amendments" means amendments to the state building code outside of the three-year state building code adoption cycle.

(10) "Residential building permit" means a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building containing only dwelling units used for independent living of one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and structures accessory to dwelling units, such as detached garages and storage buildings.

((~~(6)~~)) (11) "State building code" means the codes adopted and amended by the council as follows:

(a) The codes referenced in this chapter;

(b) The state energy code referenced in chapter 19.27A RCW; and

(c) Any other codes so designated by the Washington state legislature as adopted and amended by the council.

(12) "State building code adoption cycle" means that period during which the state building code is adopted, updated, and amended by the council.

(13) "Statewide amendment" means any amendment to the state building code initiated through council action or by petition to the council from any agency, city, county, or interested individual or organization, that would have the effect of amending the state building code for the entire state of Washington. A statewide amendment may have a regional effect.

(14) "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**