

SENATE BILL REPORT

SB 5514

As Reported by Senate Committee On:
Environment, Energy & Technology, February 18, 2025

Title: An act relating to increasing compliance pathways for the clean buildings performance standard with alternative metrics and extensions for reporting.

Brief Description: Increasing compliance pathways for the clean buildings performance standard.

Sponsors: Senators Shewmake, Krishnadasan and Nobles; by request of Department of Commerce.

Brief History:

Committee Activity: Environment, Energy & Technology: 2/12/25, 2/18/25 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Authorizes the Department of Commerce (Commerce) to adopt additional compliance pathways to comply with the State Energy Performance Standard (Standard) by meeting an alternative metric, rather than the energy use intensity target.
- Authorizes Commerce to approve extensions for covered buildings to comply with the Standard in certain circumstances and adds an exemption for extenuating circumstances approved by Commerce and specified financial hardships for K-12 school buildings.
- Requires gas and electric utilities to provide energy consumption data to all buildings under the Standard, instead of only large commercial buildings.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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: That Substitute Senate Bill No. 5514 be substituted therefor, and the substitute bill do pass.

Signed by Senators Shewmake, Chair; Slatter, Vice Chair; Dhingra, Harris, Liias, Lovelett, Ramos and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Boehnke, Ranking Member; MacEwen and Short.

Staff: Kimberly Cushing (786-7421)

Background: State Energy Performance Standard. The State Energy Performance Standard (Standard), often referred to as the Clean Buildings Performance Standard, requires the Department of Commerce (Commerce) to establish rules for energy performance standards for covered buildings, to collect data on compliance, and report on outcomes. The Standard seeks to maximize reductions in greenhouse gas emissions from the building sector.

The Standard includes energy use intensity targets by building type. The energy use intensity targets are no greater than the average energy use intensity of a building type and must consider regional and local building energy use data. The Standard must also allow a conditional compliance method that includes investment criteria to ensure energy efficiency measures, identified through energy audits, are being implemented to meet the targets.

Commerce may impose penalties on building owners for failing to demonstrate compliance with the Standard.

Covered Buildings under the Standard. There are two types of covered buildings:

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

Tier 1 buildings must comply with the Standard, and the tiered compliance and reporting begins June 2026 for buildings greater than 220,000 square feet.

All Tier 2 buildings must report on benchmarking, implementation of energy management plans, and operations and maintenance programs; they are not currently responsible for complying with the energy use intensity targets. Reporting for tier 2 buildings begins by July 1, 2027.

Exemptions from the Standard. The owner of a covered building is exempt from the Standard if the building:

- did not have a certificate of occupancy or a temporary certificate of occupancy for a year before the compliance schedule;
- did not have an average occupancy of at least 50 percent throughout the calendar year before the compliance schedule;
- contains conditioned space which is less than 50,000 square feet;
- is primarily used for manufacturing or industry;
- is an agricultural structure; or
- meets certain conditions of financial hardship.

For buildings that are listed on state or national historic registers or designated as historic under local or state law, no individual energy efficiency requirement must be met that would compromise the historical integrity of the building.

Utility Requirement to Provide Energy Consumption Data. All electric and gas utilities serving less than 25,000 customers in the state must either upload a covered commercial building's energy consumption data to the United States Environment Protection Agency (EPA) Energy Star Portfolio Manager or provide building owners with the consumption data. These utilities must provide building owners with monthly energy consumption data to benchmark the building. For buildings with three or more tenants, utilities must provide this data without requiring prior consent from tenants.

Summary of Bill (First Substitute): Alternative Metric. Commerce may adopt additional compliance pathways for building owners to comply with the Standard by meeting an alternative metric, rather than the energy use intensity target. Commerce may develop alternative metric targets related to energy use and greenhouse gas emissions if alternative metrics are included in the ANSI/ASHRAE/IES Standard 100-2018 or subsequent versions. Alternative metrics apply in most instances in lieu of energy use intensity targets, except alternative metrics do not apply to the early adoption incentive program.

Exemption from the Standard. A covered building is exempt from meeting the Standard if: (1) extenuating conditions exist, including when meeting the Standard would impair national security interests and the conditions must be approved by Commerce prior to the building's reporting date, or (2) a K-12 school building that has financial hardship related to capital construction or improvements, including a failed bond or levy.

Extension to the Standard. Covered buildings may apply to Commerce for an extension no earlier than six months before and up to six months after the building's compliance date. Commerce may approve extension requests for conditions including conditions beyond the control of the building owner. An extension is valid for two years beyond the compliance date, and after two years the building can apply for an extension renewable or file an exemption.

Additional Changes to the Standard. Penalties cannot be passed to tenants. Commerce may adopt by rule a subsequent version of the ANSI/ASHRAE/IES Standard 100 as its model for standard development. The term "covered commercial building" is changed to "covered building" throughout the chapter.

Utility Requirement to Provide Energy Consumption Data. Gas and electric utilities that must provide consumption data to the EPA or building owners for very large buildings must now also provide that data for tier 2 buildings. The utilities must provide building owners with monthly energy consumption data to benchmark the building without requiring prior consent from tenants.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):

- Adds financial hardships related to capital construction or improvements including a failed bond or levy, or both for K-12 school buildings as a reason for an exemption under the Standard.
- Adds that an extension is valid for two years beyond the compliance date, and after two years the building can apply for an extension renewal or file for an exemption.
- Directs that penalties incurred from noncompliance cannot be passed along to tenants.
- Clarifies that the State Energy Performance Standard and Early Adoption Incentive Program apply only to Tier 1 buildings.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Washington was the first in the nation with the State Energy Performance Standard, and every time you do something hard, it takes some time to come back and figure out what needs to be adjusted. Let's make sure that we have extensions for communities or building owners or school districts or community colleges that need them. An alternative compliance metric is available too; if you're already meeting Seattle's standards that should count. Schools face a steep uphill battle with respect to complying with the performance standards. Many schools have to complete extensive and costly upgrades for lighting, major system optimization, HVAC controls, and more. But schools do not have access to a stable source of upfront investment that is required to do larger projects at once. Schools are also in a unique situation for energy use compliance because they are subject to environmental health and safety rules

that are difficult to balance with energy conservation rules.

This bill will give Commerce more tools to help building owners come into compliance, and is a better approach than imposing large fines. We recognize that the program needs flexibility to address unforeseen compliance barriers as well as cost challenges. The bill is a logical approach by providing Commerce the authority to adopt alternative compliance pathways, grant timeline extensions for building owners making good faith efforts towards compliance, and introducing additional exemption categories for buildings facing unique challenges. These adjustments will help optimize compliance while maintaining the intent of the law and keeping this standard fair, achievable, and effective. We like that this bill applies to all buildings. We like the ten-year exemption period in the previous bill, but overall we do think this is a helpful program for managing costs under the State Energy Performance Standard.

Persons Testifying: PRO: Senator Sharon Shewmake, Prime Sponsor; Jason Morse, Issaquah School District; Kerry Meade, Building Potential; Peter Godlewski, Association of Washington Business; Emily Salzberg, Department of Commerce.

Persons Signed In To Testify But Not Testifying: No one.