
SUBSTITUTE SENATE BILL 5190

State of Washington

69th Legislature

2025 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Wellman, Conway, Shewmake, Bateman, Riccelli, Hasegawa, Saldaña, Lovick, Krishnadasan, Nobles, Salomon, and C. Wilson)

READ FIRST TIME 01/24/25.

1 AN ACT Relating to allowing schools and school districts to
2 request extensions to state energy performance standard deadlines for
3 K-12 school buildings; and amending RCW 19.27A.210.

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

5 **Sec. 1.** RCW 19.27A.210 and 2023 c 291 s 3 are each amended to
6 read as follows:

7 (1)(a) By November 1, 2020, the department must establish by rule
8 a state energy performance standard for covered commercial buildings.

9 (b) In developing energy performance standards, the department
10 shall seek to maximize reductions of greenhouse gas emissions from
11 the building sector. The standard must include energy use intensity
12 targets by building type and methods of conditional compliance that
13 include an energy management plan, operations and maintenance
14 program, energy efficiency audits, and investment in energy
15 efficiency measures designed to meet the targets. The department
16 shall use ANSI/ASHRAE/IES standard 100-2018 as an initial model for
17 standard development. The department must update the standard by July
18 1, 2029, and every five years thereafter. Prior to the adoption or
19 update of the standard, the department must identify the sources of
20 information it relied upon, including peer-reviewed science.

1 (2) In establishing the standard under subsection (1) of this
2 section, the department:

3 (a) Must develop energy use intensity targets that are no greater
4 than the average energy use intensity for the covered commercial
5 building occupancy type with adjustments for unique energy using
6 features. The department must also develop energy use intensity
7 targets for additional property types eligible for incentives in RCW
8 19.27A.220. The department must consider regional and local building
9 energy utilization data, such as existing energy star benchmarking
10 data, in establishing targets for the standard. Energy use intensity
11 targets must be developed for two or more climate zones and be
12 representative of energy use in a normal weather year;

13 (b) May consider building occupancy classifications from ANSI/
14 ASHRAE/IES standard 100-2018 and the United States environmental
15 protection agency's energy star portfolio manager when developing
16 energy use intensity targets;

17 (c) May implement lower energy use intensity targets for more
18 recently built covered commercial buildings based on the state energy
19 code in place when the buildings were constructed;

20 (d) (i) Must adopt a conditional compliance method that ensures
21 that covered commercial buildings that do not meet the specified
22 energy use intensity targets are taking action to achieve reduction
23 in energy use, including investment criteria for conditional
24 compliance that ensure that energy efficiency measures identified by
25 energy audits are implemented to achieve a covered commercial
26 building's energy use intensity target. The investment criteria must
27 require that a building owner adopt an implementation plan to meet
28 the energy intensity target or implement an optimized bundle of
29 energy efficiency measures that provides maximum energy savings
30 without resulting in a savings-to-investment ratio of less than 1.0,
31 except as exempted in (d) (ii) of this subsection. The implementation
32 plan must be based on an investment grade energy audit and a life-
33 cycle cost analysis that accounts for the period during which a
34 bundle of measures will provide savings. The building owner's cost
35 for implementing energy efficiency measures must reflect net cost,
36 excluding any costs covered by utility or government grants. The
37 implementation plan may exclude measures that do not pay for
38 themselves over the useful life of the measure and measures excluded
39 under (d) (ii) of this subsection. The implementation plan may include
40 phased implementation such that the building owner is not required to

1 replace a system or equipment before the end of the system or
2 equipment's useful life;

3 (ii) For those buildings or structures that are listed in the
4 state or national register of historic places; designated as a
5 historic property under local or state designation law or survey;
6 certified as a contributing resource with a national register listed
7 or locally designated historic district; or with an opinion or
8 certification that the property is eligible to be listed on the
9 national or state registers of historic places either individually or
10 as a contributing building to a historic district by the state
11 historic preservation officer or the keeper of the national register
12 of historic places, no individual energy efficiency requirement need
13 be met that would compromise the historical integrity of a building
14 or part of a building;

15 (e) Must provide an alternative compliance pathway for an owner
16 of a state campus district energy system, in accordance with RCW
17 19.27A.260, and more broadly for the owner of any campus district
18 energy system that is approved by the department to opt-in in
19 accordance with RCW 19.27A.260(6);

20 (f) Must guarantee that the owner of a state campus district
21 energy system is not required to implement more than one energy
22 management plan and more than one operations and maintenance plan for
23 the campus;

24 (g) Must guarantee that a state campus district energy system, as
25 defined in RCW 19.27A.260, and all buildings connected to a state
26 campus district energy system, are in compliance with any
27 requirements for campus buildings to implement energy efficiency
28 measures identified by an energy audit if:

29 (i) The energy audit demonstrates the energy savings from the
30 state campus district energy system energy efficiency measures will
31 be greater than the energy efficiency measures identified for the
32 campus buildings; and

33 (ii) The state campus district energy system implements the
34 energy efficiency measures.

35 (3) Based on records obtained from each county assessor and other
36 available information sources, the department must create a database
37 of covered commercial buildings and building owners required to
38 comply with the standard established in accordance with this section.

39 (4) By July 1, 2021, the department must provide the owners of
40 covered buildings with notification of compliance requirements.

1 (5) The department must develop a method for administering
2 compliance reports from building owners.

3 (6) The department must provide a customer support program to
4 building owners including, but not limited to, outreach and
5 informational material, periodic training, phone and email support,
6 and other technical assistance.

7 (7) The building owner of a covered commercial building must
8 report the building owner's compliance with the standard to the
9 department in accordance with the schedule established under
10 subsection (8) of this section and every five years thereafter. For
11 each reporting date, the building owner must submit documentation to
12 demonstrate that:

13 (a) The weather normalized energy use intensity of the covered
14 commercial building measured in the previous calendar year is less
15 than or equal to the energy use intensity target; or

16 (b) The covered commercial building has received conditional
17 compliance from the department based on energy efficiency actions
18 prescribed by the standard; or

19 (c) The covered commercial building is exempt from the standard
20 by demonstrating that the building meets one of the following
21 criteria:

22 (i) The building did not have a certificate of occupancy or
23 temporary certificate of occupancy for all 12 months of the calendar
24 year prior to the building owner compliance schedule established
25 under subsection (8) of this section;

26 (ii) The building did not have an average physical occupancy of
27 at least 50 percent throughout the calendar year prior to the
28 building owner compliance schedule established under subsection (8)
29 of this section;

30 (iii) The sum of the building's gross floor area minus
31 unconditioned and semiconditioned spaces, as defined in the
32 Washington state energy code, is less than 50,000 square feet;

33 (iv) The primary use of the building is manufacturing or other
34 industrial purposes, as defined under the following use designations
35 of the international building code: (A) Factory group F; or (B) high
36 hazard group H;

37 (v) The building is an agricultural structure; or

38 (vi) The building meets at least one of the following conditions
39 of financial hardship: (A) The building had arrears of property taxes
40 or water or wastewater charges that resulted in the building's

1 inclusion, within the prior two years, on a city's or county's annual
2 tax lien sale list; (B) the building has a court appointed receiver
3 in control of the asset due to financial distress; (C) the building
4 is owned by a financial institution through default by a borrower;
5 (D) the building has been acquired by a deed in lieu of foreclosure
6 within the previous 24 months; (E) the building has a senior mortgage
7 subject to a notice of default; or (F) other conditions of financial
8 hardship identified by the department by rule.

9 (8) (a) A building owner of a covered commercial building must
10 meet the following reporting schedule for complying with the standard
11 established under this section:

12 ~~((a))~~ (i) For a building with more than 220,000 gross square
13 feet, June 1, 2026;

14 ~~((b))~~ (ii) For a building with more than 90,000 gross square
15 feet but less than 220,001 gross square feet, June 1, 2027; and

16 ~~((c))~~ (iii) For a building with more than 50,000 gross square
17 feet but less than 90,001 square feet, June 1, 2028.

18 (b) A school district, public school as defined in RCW
19 28A.150.010, or private school may request to extend a K-12 school
20 building's compliance date beyond the scheduled date established in
21 (a) of this subsection. A request to extend must be submitted to the
22 department prior to a building's scheduled compliance date and
23 include a noncompliance mitigation plan that demonstrates the school
24 or school district is taking action to achieve compliance. An
25 extension granted pursuant to this subsection is valid for 10 years
26 beyond the building's scheduled compliance date and may not be
27 renewed.

28 (9) (a) The department may issue a notice of violation to a
29 building owner for noncompliance with the requirements of this
30 section. A determination of noncompliance may be made for any of the
31 following reasons:

32 (i) Failure to submit a compliance report in the form and manner
33 prescribed by the department;

34 (ii) Failure to meet an energy use intensity target or failure to
35 receive conditional compliance approval;

36 (iii) Failure to provide accurate reporting consistent with the
37 requirements of the standard established under this section; and

38 (iv) Failure to provide a valid exemption certificate.

39 (b) In order to create consistency with the implementation of the
40 standard and rules adopted under this section, the department must

1 reply and cite the section of law, code, or standard in a notice of
2 violation for noncompliance with the requirements of this section
3 when requested to do so by the building owner or the building owner's
4 agent.

5 (10) (a) The department is authorized to impose an administrative
6 penalty upon a building owner for failing to submit documentation
7 demonstrating compliance with the requirements of this section. The
8 penalty may not exceed an amount equal to \$5,000 plus an amount based
9 on the duration of any continuing violation. The additional amount
10 for a continuing violation may not exceed a daily amount equal to \$1
11 per year per gross square foot of floor area. The department may by
12 rule increase the maximum penalty rates to adjust for the effects of
13 inflation.

14 (b) The department may not impose an administrative penalty upon
15 a school or school district that submits a request to extend a K-12
16 school building's compliance date as authorized in subsection (8) (b)
17 of this section.

18 (11) Administrative penalties collected under this section must
19 be deposited into the low-income weatherization and structural
20 rehabilitation assistance account created in RCW 70A.35.030.

21 (12) The department must adopt rules as necessary to implement
22 this section, including but not limited to:

23 (a) Rules necessary to ensure timely, accurate, and complete
24 reporting of building energy performance for all covered commercial
25 buildings;

26 (b) Rules necessary to grant extensions to schools and school
27 districts as authorized in subsection (8) (b) of this section;

28 (c) Rules necessary to enforce the standard established under
29 this section; and

30 ~~((e))~~ (d) Rules that provide a mechanism for appeal of any
31 administrative penalty imposed by the department under this section.

32 (13) Upon request by the department, each county assessor must
33 provide property data from existing records to the department as
34 necessary to implement this section.

35 (14) By January 15, 2022, and each year thereafter through 2029,
36 the department must submit a report to the governor and the
37 appropriate committees of the legislature on the implementation of
38 the state energy performance standard established under this section.
39 The report must include information regarding the adoption of the
40 ANSI/ASHRAE/IES standard 100-2018 as an initial model, the financial

1 impact to building owners required to comply with the standard, the
2 amount of incentives provided under RCW 19.27A.220 and 19.27A.230,
3 and any other significant information associated with the
4 implementation of this section.

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