
SENATE BILL 5722

State of Washington

67th Legislature

2022 Regular Session

By Senators Nguyen and Lillas; by request of Office of the Governor

Prefiled 01/06/22.

1 AN ACT Relating to reducing greenhouse gas emissions in
2 buildings; amending RCW 19.27A.200; adding new sections to chapter
3 19.27A RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in order to
6 meet the statewide greenhouse gas emissions limits in RCW 70A.45.020,
7 the state must require performance standards for existing buildings.

8 In order to have a comprehensive understanding of the need and
9 potential for updating the state's building stock, including the
10 "split incentive issue" in which tenants are responsible for energy
11 costs and building owners are responsible for choices about energy
12 systems and building maintenance, more robust benchmarking and
13 reporting for building performance, operations, and maintenance is
14 needed. While the state has adopted comprehensive reporting
15 requirements for larger buildings, it currently lacks similar
16 requirements for smaller buildings. It is the intent of the
17 legislature to extend existing building benchmarking, energy
18 management, and operations and maintenance planning requirements to
19 smaller commercial and multifamily residential buildings in order to
20 assess the needs and opportunities for job creation and incentives
21 and environmental and public health improvements.

1 The legislature further finds that in order to meet the statewide
2 greenhouse gas emissions limits in the energy sectors of the economy,
3 more resources must be directed toward achieving decarbonization of
4 building heating and cooling loads, while continuing to relieve
5 energy burdens that exist in overburdened communities.

6 **Sec. 2.** RCW 19.27A.200 and 2019 c 285 s 2 are each amended to
7 read as follows:

8 The definitions in this section apply throughout RCW 19.27A.210,
9 19.27A.220, 19.27A.230, ~~((and))~~ 19.27A.240, and sections 3 and 4 of
10 this act unless the context clearly requires otherwise.

11 (1) "Agricultural structure" means a structure designed and
12 constructed to house farm implements, hay, grain, poultry, livestock,
13 or other horticultural products, and that is not a place used by the
14 public or a place of human habitation or employment where
15 agricultural products are processed, treated, or packaged.

16 (2) "Baseline energy use intensity" means a building's weather
17 normalized energy use intensity measured using the previous year to
18 making an application for an incentive under RCW 19.27A.220.

19 (3) (a) "Building owner" means an individual or entity possessing
20 title to a building.

21 (b) In the event of a land lease, "building owner" means the
22 entity possessing title to the building on leased land.

23 (4) "Building tenant" means a person or entity occupying or
24 holding possession of a building or premises pursuant to a rental
25 agreement.

26 (5) "Conditional compliance" means a temporary compliance method
27 used by covered building owners that demonstrate the owner has
28 implemented energy use reduction strategies required by the standard,
29 but has not demonstrated full compliance with the energy use
30 intensity target.

31 (6) "Consumer-owned utility" has the same meaning as defined in
32 RCW 19.27A.140.

33 (7) "Covered ~~((commercial))~~ building" ~~((means))~~ includes a tier 2
34 covered building or a building where the sum of nonresidential,
35 hotel, motel, and dormitory floor areas exceeds ~~((fifty thousand))~~
36 50,000 gross square feet, excluding the parking garage area.

37 (8) "Department" means the department of commerce.

38 (9) "Director" means the director of the department of commerce
39 or the director's designee.

1 (10) "Electric utility" means a consumer-owned utility or an
2 investor-owned utility.

3 (11) "Eligible building owner" means: (a) The owner of a covered
4 (~~commercial~~) building required to comply with the standard
5 established in RCW 19.27A.210; or (b) the owner of a multifamily
6 residential building where the floor area exceeds (~~fifty thousand~~)
7 50,000 gross square feet, excluding the parking garage area.

8 (12) "Energy" includes: Electricity, including electricity
9 delivered through the electric grid and electricity generated at the
10 building premises using solar or wind energy resources; natural gas,
11 including natural gas derived from renewable sources, synthetic
12 sources, and fossil fuel sources; district steam; district hot water;
13 district chilled water; propane; fuel oil; wood; coal; or other fuels
14 used to meet the energy loads of a building.

15 (13) "Energy use intensity" means a measurement that normalizes a
16 building's site energy use relative to its size. A building's energy
17 use intensity is calculated by dividing the total net energy consumed
18 in one year by the gross floor area of the building, excluding the
19 parking garage. "Energy use intensity" is reported as a value of
20 thousand British thermal units per square foot per year.

21 (14) "Energy use intensity target" means the net energy use
22 intensity of a covered (~~commercial~~) building that has been
23 established for the purposes of complying with the standard
24 established under RCW 19.27A.210.

25 (15) "Gas company" includes every corporation, company,
26 association, joint stock association, partnership, and person, their
27 lessees, trustees, or receiver appointed by any court whatsoever, and
28 every city or town owning, controlling, operating, or managing any
29 gas plant within this state.

30 (16) "Greenhouse gas" includes carbon dioxide, methane, nitrous
31 oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

32 (17) (a) "Gross floor area" means the total number of square feet
33 measured between the exterior surfaces of the enclosing fixed walls
34 of a building, including all supporting functions such as offices,
35 lobbies, restrooms, equipment storage areas, mechanical rooms, break
36 rooms, and elevator shafts.

37 (b) "Gross floor area" does not include outside bays or docks.

38 (18) "Investor-owned utility" means a (~~company owned by~~
39 ~~investors, that meets one of the definitions of RCW 80.04.010, and~~
40 ~~that is engaged in distributing electricity~~) corporation owned by

1 investors that meets the definition of "corporation" as defined in
2 RCW 80.04.010 and is engaged in distributing either electricity or
3 natural gas, or both, to more than one retail electric customer in
4 the state.

5 (19) "Multifamily residential building" means a covered
6 multifamily building containing sleeping units or more than ~~((two))~~
7 five dwelling units where occupants are primarily permanent in
8 nature.

9 (20) "Net energy use" means the sum of metered and bulk fuel
10 energy entering the building, minus the sum of metered energy leaving
11 the building or campus. Renewable energy produced on a campus that is
12 not attached to a covered building may be included.

13 (21) "Qualifying utility" means a consumer-owned or investor-
14 owned gas or electric utility that serves more than ~~((twenty-five~~
15 ~~thousand))~~ 25,000 customers in the state of Washington.

16 (22) "Savings-to-investment ratio" means the ratio of the total
17 present value savings to the total present value costs of a bundle of
18 an energy or water conservation measure estimated over the projected
19 useful life of each measure. The numerator of the ratio is the
20 present value of net savings in energy or water and nonfuel or
21 nonwater operation and maintenance costs attributable to the proposed
22 energy or water conservation measure. The denominator of the ratio is
23 the present value of the net increase in investment and replacement
24 costs less salvage value attributable to the proposed energy or water
25 conservation measure.

26 (23) "Standard" means the state energy performance standard for
27 covered ~~((commercial))~~ buildings established under RCW 19.27A.210.

28 (24) "Thermal energy company" has the same meaning as defined in
29 RCW 80.04.550.

30 (25) "Weather normalized" means a method for modifying the
31 measured building energy use in a specific weather year to energy use
32 under normal weather conditions.

33 (26) "Greenhouse gas-adjusted energy use intensity" means a
34 measurement of energy use intensity in which the energy consumption
35 of a building is adjusted to reflect the greenhouse gas emissions
36 from each energy source used by the building.

37 (27) "Tier 1 covered building" means a building where the sum of
38 nonresidential, hotel, motel, and dormitory floor areas are equal to
39 or exceed 50,000 gross square feet, excluding the parking garage
40 area.

1 (28) "Tier 2 covered building" means a building where the sum of
2 multifamily residential, nonresidential, hotel, motel, and dormitory
3 floor areas exceeds 20,000 gross square feet, excluding the parking
4 garage area, but does not exceed 50,000 gross square feet. Tier 2
5 covered buildings also include multifamily buildings where floor
6 areas are equal to or exceed 50,000 gross square feet.

7 NEW SECTION. Sec. 3. A new section is added to chapter 19.27A
8 RCW to read as follows:

9 (1) (a) By December 1, 2023, the department must adopt by rule a
10 state energy management and benchmarking requirement for tier 2
11 covered buildings.

12 (b) In establishing the requirements under (a) of this
13 subsection, the department must adopt requirements for building owner
14 implementation consistent with the standard established pursuant to
15 RCW 19.27A.210(1) and limited to energy management planning,
16 operations and maintenance planning, and energy use analysis through
17 benchmarking and associated reporting and administrative procedures.
18 Administrative procedures must include exemptions for financial
19 hardship.

20 (c) The department must provide a customer support program to
21 building owners including, but not limited to, outreach and
22 informational materials that connect building owners to utility
23 resources, periodic training, phone and email support, and other
24 technical assistance. The customer support program must include
25 enhanced technical support, such as benchmarking assistance and
26 assistance in developing energy management and operations and
27 maintenance plans, for covered buildings whose owners typically do
28 not employ dedicated building managers including, but not limited to,
29 multifamily housing, child care facilities, and houses of worship.
30 The department shall consider underresourced buildings with a high
31 energy use per square foot, buildings in rural communities, buildings
32 whose tenants are primarily small businesses, and those located in
33 high-risk communities according to the department of health's
34 environmental health disparities map.

35 (d) The department shall establish an incentive program.
36 Incentive assistance must be directed to supplement the cost to the
37 building owner or tenant for these activities, less utility
38 incentives and annual utility savings resulting from these
39 requirements.

1 (e) Incentive assistance funds provided for upgrading multifamily
2 buildings must include a requirement that tenants' rent not be raised
3 at a rate that exceeds inflation for a period of four years following
4 receipt of incentive assistance funds.

5 (f) (i) The department is authorized to adopt rules related to the
6 imposition of an administrative penalty not to exceed 30 cents per
7 square foot upon a building owner for failing to submit documentation
8 demonstrating compliance with the requirements of this section,
9 including penalties for increasing rent above the rate of inflation
10 for multifamily leased space that receive incentive assistance funds
11 to comply with this act.

12 (ii) Administrative penalties collected under this section must
13 be deposited into the low-income weatherization and structural
14 rehabilitation assistance account created in RCW 70A.35.030 and
15 reinvested into the program, where feasible, to support compliance
16 with the standard.

17 (2) By July 1, 2025, the department must provide the owners of
18 tier 2 covered buildings with notification of the requirements the
19 department has adopted pursuant to this section that apply to tier 2
20 covered buildings.

21 (3) The owner of a tier 2 covered building must report the
22 building owner's compliance with the requirements adopted by the
23 department to the department in accordance with the schedule
24 established under subsection (4) of this section and every five years
25 thereafter. For each reporting date, the building owner must submit
26 documentation to demonstrate that the building owner has developed
27 and implemented the procedures adopted by the department by rule,
28 limited to energy management planning, operations and maintenance
29 planning, and energy use analysis through benchmarking.

30 (4) By July 1, 2027, tier 2 covered building owners must submit
31 reports to the department as required by the rules adopted in
32 subsection (1) of this section.

33 (5) By July 1, 2029, the department must evaluate benchmarking
34 data to determine energy use and greenhouse gas emissions averages by
35 building type. The department must submit a report to the legislature
36 and the governor by October 1, 2029, with recommendations for cost-
37 effective building performance standards for tier 2 covered
38 buildings. The report must contain information on estimated costs to
39 building owners to implement the standard and anticipated
40 implementation challenges. The department is authorized to adopt

1 rules for inclusion of tier 2 covered buildings in the state energy
2 performance standard, including greenhouse gas emissions, created in
3 RCW 19.27A.210, beginning in 2030. In adopting performance standards,
4 the department shall consider age of the building in setting targets
5 for tier 2 buildings. The department is authorized to adopt
6 performance standards for multifamily residential buildings on a
7 longer timeline schedule than other tier 2 buildings. By December 31,
8 2030, the department shall adopt rules for performance standards for
9 tier 2 buildings. The rules may not take effect before the end of the
10 2031 regular legislative session.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.27A
12 RCW to read as follows:

13 In developing energy performance standards under this chapter,
14 the department may establish targets for greenhouse gas-adjusted
15 energy use intensity to maximize reductions of greenhouse gas
16 emissions from the building sector.

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