
SUBSTITUTE SENATE BILL 5804

State of Washington

64th Legislature

2015 Regular Session

By Senate Government Operations & Security (originally sponsored by Senators Llias, Benton, Hasegawa, Dammeier, and Angel)

1 AN ACT Relating to the procedure for adoption and amendment of
2 the Washington state energy code; and amending RCW 19.27A.020,
3 19.27A.025, and 19.27A.045.

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

5 **Sec. 1.** RCW 19.27A.020 and 2010 c 271 s 304 are each amended to
6 read as follows:

7 (1) The legislature finds that the state building code council
8 ((shall adopt rules to be known as the Washington state energy code
9 as part of the state building code)) adopted and amended by rule the
10 2012 Washington state energy code published by the International Code
11 Council, Inc. The legislature also finds that this code, which is to
12 be known as the Washington state energy code and is part of the state
13 building code adopted in chapter 19.27 RCW, was based on the 2012
14 international energy conservation code.

15 (2) The council ((shall)) must follow the legislature's standards
16 set forth in this section ((to)) and must adopt rules to be known as
17 the Washington state energy code. The Washington state energy code
18 shall be designed to:

19 (a) Construct increasingly energy efficient homes and buildings
20 that help achieve the broader goal of building zero fossil-fuel

1 greenhouse gas emission homes and buildings by the year 2031 as
2 specified in RCW 19.27A.160;

3 (b) Require new buildings to meet a certain level of energy
4 efficiency, but allow flexibility in building design, construction,
5 and heating equipment efficiencies within that framework; and

6 (c) Allow space heating equipment efficiency to offset or
7 substitute for building envelope thermal performance.

8 (3) The Washington state energy code (~~(shall)~~) must take into
9 account regional climatic conditions. Climate zone 1 (~~(shall)~~)
10 includes all counties not included in climate zone 2. Climate zone 2
11 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln,
12 Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

13 (4) The minimum Washington state energy code for residential and
14 nonresidential buildings (~~(shall be)~~) is the (~~(2006 edition of the~~
15 ~~Washington state energy code, or)~~) 2012 Washington state energy code,
16 as published by the International Code Council, Inc. and as amended
17 by rule by the council.

18 (~~(The minimum state energy code for new nonresidential~~
19 ~~buildings shall be the Washington state energy code, 2006 edition, or~~
20 ~~as amended by the council by rule.~~

21 (~~(6)(a) Except as provided in (b) of this subsection,~~) The
22 Washington state energy code for residential structures shall preempt
23 the residential energy code of each city, town, and county in the
24 state of Washington.

25 (~~((b) The state energy code for residential structures does not~~
26 ~~preempt a city, town, or county's energy code for residential~~
27 ~~structures which exceeds the requirements of the state energy code~~
28 ~~and which was adopted by the city, town, or county prior to March 1,~~
29 ~~1990. Such cities, towns, or counties may not subsequently amend~~
30 ~~their energy code for residential structures to exceed the~~
31 ~~requirements adopted prior to March 1, 1990.~~

32 (~~(7))~~) (6) The state building code council (~~(shall)~~) must consult
33 with the department of (~~(general administration)~~) enterprise services
34 as provided in RCW 34.05.310 prior to publication of proposed rules.
35 The director of the department of (~~(general administration shall)~~)
36 enterprise services must recommend to the state building code council
37 any changes necessary to conform the proposed rules to the
38 requirements of this section.

1 ~~((8) The state building code council shall evaluate and consider~~
2 ~~adoption of the international energy conservation code in Washington~~
3 ~~state in place of the existing state energy code.~~

4 ~~(9))~~ (7) The definitions in RCW 19.27A.140 apply throughout this
5 section.

6 **Sec. 2.** RCW 19.27A.025 and 1991 c 122 s 3 are each amended to
7 read as follows:

8 (1)(a) The minimum state energy code for new nonresidential
9 buildings ~~((shall be))~~ is the ~~((Washington state energy code, 1986~~
10 edition, as amended)) 2012 Washington state energy code, as published
11 by the International Code Council, Inc. and as amended by the state
12 building code council. The ~~((state building code))~~ council may, by
13 rule adopted pursuant to chapter 34.05 RCW, amend ~~((that code's))~~ the
14 requirements of the code for new nonresidential buildings ~~((provided~~
15 that)) if:

16 ~~((a) Such))~~ (i) The amendments increase the energy efficiency of
17 typical newly constructed nonresidential buildings; and

18 ~~((b))~~ (ii) Any new measures, standards, or requirements adopted
19 ~~((must be))~~ as amendments to the Washington state energy code are
20 technically feasible, commercially available, ~~((and))~~ cost-effective
21 to building owners and tenants, and based upon an analysis, comments
22 from owners and tenants, as well as other stakeholders, and
23 conclusions by the council that the criteria of this subsection
24 (1)(b) are met.

25 (b) The council must make a determination of the technological,
26 economic, and process factors of each update and determine whether
27 action beyond reporting its findings is necessary as provided in RCW
28 19.27A.160(2).

29 (2) The council, beginning with the development of the 2018
30 Washington state energy code, must endeavor to reduce the number of
31 amendments processed by the council. Stakeholders are encouraged but
32 not required to take concepts and ideas as well as proposed
33 amendments through the international code council's model energy code
34 update process. The purpose is to gather input from participants at
35 the national level and provide any comments and testimony as part of
36 a proposal submittal to the council's process.

37 (3)(a) Any person may propose one or more amendments to the
38 Washington state energy code after the council files a statement of
39 inquiry in accordance with RCW 34.05.310. The proponent of an

1 amendment must indicate the amount of energy efficiency gained due to
2 the proposed amendment and must provide cost/benefit data.

3 (b) The proposed amendment must make one of the following
4 assertions regarding the cost impact of the code change proposal: (i)
5 The code change proposal will increase the cost of construction; or
6 (ii) the code change proposal will not increase the cost of
7 construction. The proponent of the amendment must submit information
8 substantiating the assertion made in (b)(i) or (ii) of this
9 subsection (3) to the council. This information must be considered by
10 the council.

11 (c) Any proposal submitted that does not include the requisite
12 information required in (a) and (b) of this subsection is incomplete
13 and may not be considered by the council.

14 (d) The council must work with stakeholders in developing a two
15 or multitier process, as appropriate, for the review of amendments.
16 It is recognized that good ideas and concepts are often introduced
17 during the review of substantial amendments to the code, but there is
18 not enough information for those to be included in substantial
19 amendments to the code. Only complete amendments may move forward for
20 the council's review of substantial amendments to the code.
21 Incomplete amendments and ideas or concepts must be reviewed
22 separately from the review of substantial amendments to the code.

23 (e) The council may only take final action on amendments that
24 have been fully vetted by a technical advisory group or specifically
25 included on the notice for the public hearing pursuant to RCW
26 42.30.060. The council may modify amendments for the purposes of
27 providing clarifying language or for making technical corrections
28 provided such action is consistent with RCW 34.05.328.

29 (4) The council must adopt rules consistent with chapter 19.85
30 RCW, the regulatory fairness act. The council must also evaluate
31 impacts resulting from adoption of the Washington state energy code
32 based on the extent of disproportionate impacts on small businesses
33 and reduce the costs imposed by the rule on small businesses.

34 (5)(a) The council, prior to filing notice of a proposed rule
35 under RCW 34.05.320, must evaluate all proposed amendments for their
36 technical feasibility and cost-effectiveness according to national
37 consensus standards. The purpose of the evaluation is to assess the
38 impact of the proposed amendments to the code.

39 (b) The council must work with stakeholders to evaluate various
40 consensus economic methodologies for evaluating the cost/benefit

1 impact of substantial amendments to the codes listed in RCW 19.27.031
2 as well as the energy code. The council, based on work with
3 stakeholders, must select an economic methodology to evaluate the
4 impact of the package of proposals selected for review to be included
5 as substantial amendments to the code. As part of this work, the
6 council must consider methodologies that are simple to use and make
7 the economic evaluation methodology available for individuals to use
8 in making their proposed amendments to the codes in RCW 19.27.031.
9 Periodically, the council must review and determine if the selected
10 economic methodology should be updated. If the council determines an
11 update to the economic methodology is necessary, the council must use
12 the same process specified in this subsection to update the
13 methodology.

14 (6) A filing by the council under RCW 34.05.320 must include an
15 analysis of the cost-effectiveness and the percent of energy
16 efficiency increase gained by the cumulative effect of all the
17 proposed amendments.

18 (7) Rules adopted by the council in accordance with this section
19 are subject to RCW 34.05.328.

20 (8) In considering amendments to the state energy code for
21 nonresidential buildings, the state building code council (~~shall~~)
22 must establish and consult with a technical advisory committee
23 (~~including~~) that includes representatives of appropriate state
24 agencies, local governments, general contractors, building owners and
25 managers, design professionals, utilities, manufacturers, and other
26 interested and affected parties.

27 (~~3~~) (9) Decisions to amend the Washington state energy code
28 for new nonresidential buildings (~~shall~~) must be made prior to
29 December 15th of any year and (~~shall~~) may not take effect before
30 the end of the regular legislative session in the (~~next~~) subsequent
31 year. Any disputed provisions within an amendment presented to the
32 legislature (~~shall~~) must be approved by the legislature before
33 going into effect. A disputed provision is one (~~which~~) that was
34 adopted by the state building code council with less than a two-
35 thirds majority vote. Substantial amendments to the code (~~shall~~)
36 may be adopted no more frequently than every three years.

37 **Sec. 3.** RCW 19.27A.045 and 1990 c 2 s 5 are each amended to read
38 as follows:

1 (~~The state building code council shall maintain the state energy
2 code for residential structures in a status which is consistent with
3 the state's interest as set forth in section 1, chapter 2, Laws of
4 1990. In maintaining the Washington state energy code for residential
5 structures, beginning in 1996 the council shall review the Washington
6 state energy code every three years. After January 1, 1996, by rule
7 adopted pursuant to chapter 34.05 RCW, the council may amend any
8 provisions of the Washington state energy code to increase the energy
9 efficiency of newly constructed residential buildings. Decisions to
10 amend the Washington state energy code for residential structures
11 shall be made prior to December 1 of any year and shall not take
12 effect before the end of the regular legislative session in the next
13 year.))~~

14 (1)(a) The minimum state energy code for new residential
15 buildings is the 2012 Washington state energy code, as published by
16 the International Code Council, Inc. and as amended by the state
17 building code council. The council may, by rule adopted pursuant to
18 chapter 34.05 RCW, amend the requirements of the code for new
19 residential buildings if:

20 (i) The amendments increase the energy efficiency of typical
21 newly constructed residential buildings; and

22 (ii) Any new measures, standards, or requirements adopted as
23 amendments to the Washington state energy code are technically
24 feasible, commercially available, and cost-effective to building
25 owners and tenants.

26 (b) The council must make a determination of the technological,
27 economic, and process factors of each update and determine whether
28 action beyond reporting its findings is necessary as provided in RCW
29 19.27A.160(2).

30 (2) The council, beginning with the development of the 2018
31 Washington state energy code, must endeavor to reduce the number of
32 amendments processed by the council. Stakeholders are encouraged but
33 not required to take concepts and ideas as well as proposed
34 amendments through the international code council's model energy code
35 update process. The purpose is to gather input from participants at
36 the national level and provide any comments and testimony as part of
37 a proposal submittal to the council's process.

38 (3)(a) Any person may propose one or more amendments to the
39 Washington state energy code after the council files a statement of
inquiry in accordance with RCW 34.05.310. The proponent of an

1 amendment must indicate the amount of energy efficiency gained due to
2 the proposed amendment and must provide cost/benefit data.

3 (b) The proposed amendment must make one of the following
4 assertions regarding the cost impact of the code change proposal: (i)
5 The code change proposal will increase the cost of construction; or
6 (ii) the code change proposal will not increase the cost of
7 construction. The proponent of the amendment must submit information
8 substantiating the assertion made in (b)(i) or (ii) of this
9 subsection (3) to the council. This information must be considered by
10 the council.

11 (c) Any proposal submitted that does not include the requisite
12 information required in (a) and (b) of this subsection is incomplete
13 and may not be considered by the council.

14 (d) The council must work with stakeholders in developing a
15 multitier process, as appropriate, for the review of amendments. Only
16 complete amendments may move forward for the council's review of
17 substantial amendments to the code. Incomplete amendments and ideas
18 or concepts must be reviewed separately from the review of
19 substantial amendments to the code.

20 (e) The council may only take final action on amendments that
21 have been fully vetted by a technical advisory group or specifically
22 included on the notice for the public hearing pursuant to RCW
23 42.30.060. The council may modify amendments for the purposes of
24 providing clarifying language or for making technical corrections
25 provided such action is consistent with RCW 34.05.328.

26 (4) The council must adopt rules consistent with chapter 19.85
27 RCW, the regulatory fairness act. The council must also evaluate
28 impacts resulting from adoption of the Washington energy code based
29 on the extent of disproportionate impacts on small businesses and
30 reduce the costs imposed by the rule on small businesses.

31 (5)(a) The council, prior to filing notice of a proposed rule
32 under RCW 34.05.320, must evaluate all proposed amendments for their
33 technical feasibility and cost-effectiveness according to national
34 consensus standards. The purpose of the evaluation is to assess the
35 impact of the proposed amendments to the code.

36 (b) The council must work with stakeholders to evaluate various
37 consensus economic methodologies for evaluating the cost/benefit
38 impact of substantial amendments to the codes listed in RCW 19.27.031
39 as well as the energy code. The council, based on work with
40 stakeholders, must select an economic methodology to evaluate the

1 impact of the package of proposals selected for review to be included
2 as substantial amendments to the code. As part of this work, the
3 council must consider methodologies that are simple to use and make
4 the economic evaluation methodology available for individuals to use
5 in making their proposed amendments to the codes in RCW 19.27.031.
6 Periodically, the council must review and determine if the selected
7 economic methodology should be updated. If the council determines an
8 update to the economic methodology is necessary, the council must use
9 the same process specified in this subsection to update the
10 methodology.

11 (6) A filing by the council under RCW 34.05.320 must include an
12 analysis of the cost-effectiveness and the percent of energy
13 efficiency increase gained by the cumulative effect of all the
14 proposed amendments.

15 (7) Rules adopted by the council in accordance with this section
16 are subject to RCW 34.05.328.

17 (8) In considering amendments to the Washington state energy code
18 for residential buildings, the council must establish and consult
19 with a technical advisory committee that includes representatives of
20 appropriate state agencies, local governments, general contractors,
21 building owners and managers, design professionals, utilities,
22 manufacturers, and other interested and affected parties.

23 (9) Decisions to amend the Washington state energy code for new
24 residential buildings must be made prior to December 15th of any year
25 and may not take effect before the end of the regular legislative
26 session in the subsequent year. Substantial amendments to the code
27 may be adopted no more frequently than every three years.

--- END ---