

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5509

59th Legislature
2005 Regular Session

Passed by the Senate March 11, 2005
YEAS 32 NAYS 16

CERTIFICATE

President of the Senate

Passed by the House March 30, 2005
YEAS 78 NAYS 19

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5509** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Speaker of the House of Representatives

Secretary

Approved

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5509

Passed Legislature - 2005 Regular Session

State of Washington

59th Legislature

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By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Esser, Fraser, Schmidt, Pridemore, Fairley, Berkey, Kohl-Welles, Kline, Regala, Rockefeller, Weinstein, Brown, Keiser and McAuliffe)

READ FIRST TIME 03/02/05.

AN ACT Relating to high-performance green buildings; adding new sections to chapter 28A.150 RCW; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 39.04 RCW; and adding a new chapter to Title 39 RCW.

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

NEW SECTION. Sec. 1 (1) The legislature finds that public buildings can be built and renovated using high-performance methods that save money, improve school performance, and make workers more productive. High-performance public buildings are proven to increase student test scores, reduce worker absenteeism, and cut energy and utility costs.

(2) It is the intent of the legislature that state-owned buildings and schools be improved by adopting recognized standards for high-performance public buildings and allowing flexible methods and choices in how to achieve those standards. The legislature also intends that public agencies and public school districts shall document costs and savings to monitor this program and ensure that economic, community, and environmental goals are achieved each year, and that an independent performance review be conducted to evaluate this program and determine the extent to which the results intended by this chapter are being met.

NEW SECTION. Sec. 2 The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of general administration.

(2) "High-performance public buildings" means high-performance public buildings designed, constructed, and certified to a standard as identified in this chapter.

(3) "Institutions of higher education" means the state universities, the regional universities, The Evergreen State College, the community colleges, and the technical colleges.

(4) "LEED silver standard" means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard.

(5)(a) "Major facility project" means: (i) A construction project larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code; or (ii) a building renovation project when the cost is greater than fifty percent of the assessed value and the project is larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code.

(b) "Major facility project" does not include: (i) Projects for which the department, public school district, or other applicable agency and the design team determine the LEED silver standard or the Washington sustainable school design protocol to be not practicable; or (ii) transmitter buildings, pumping stations, hospitals, research facilities primarily used for sponsored laboratory experimentation, laboratory research, or laboratory training in research methods, or other similar building types as determined by

the department. When the LEED silver standard is determined to be not practicable for a project, then it must be determined if any LEED standard is practicable for the project. If LEED standards or the Washington sustainable school design protocol are not followed for the project, the public school district or public agency shall report these reasons to the department.

(6) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and public higher education institution.

(7) "Public school district" means a school district eligible to receive state basic education moneys pursuant to RCW 28A.150.250 and 28A.150.260.

(8) "Washington sustainable school design protocol" means the school design protocol and related information developed by the state board of education and the office of the superintendent of public instruction, in conjunction with school districts and the school facilities advisory board.

NEW SECTION. Sec. 3 (1) All major facility projects of public agencies receiving any funding in a state capital budget, or projects financed through a financing contract as defined in RCW 39.94.020, must be designed, constructed, and certified to at least the LEED silver standard. This subsection applies to major facility projects that have not entered the design phase prior to the effective date of this section and to the extent appropriate LEED silver standards exist for that type of building or facility.

(2) All major facility projects of any entity other than a public agency or public school district receiving any funding in a state capital budget must be designed, constructed, and certified to at least the LEED silver standard. This subsection applies to major facility projects that have not entered the grant application process prior to the effective date of this section and to the extent appropriate LEED silver standards exist for that type of building or facility.

(3)(a) Public agencies, under this section, shall monitor and document ongoing operating savings resulting from major facility projects designed, constructed, and certified as required under this section.

(b) Public agencies, under this section, shall report annually to the department on major facility projects and operating savings.

(4) The department shall consolidate the reports required in subsection (3) of this section into one report and report to the governor and legislature by September 1st of each even-numbered year beginning in 2006 and ending in 2016. In its report, the department shall also report on the implementation of this chapter, including reasons why the LEED standard was not used as required by section 2 (5)(b) of this act. The department shall make recommendations regarding the ongoing implementation of this chapter, including a discussion of incentives and disincentives related to implementing this chapter.

NEW SECTION. Sec. 4 (1) All major facility projects of public school districts receiving any funding in a state capital budget must be designed and constructed to at least the LEED silver standard or the Washington sustainable school design protocol. To the extent appropriate LEED silver or Washington sustainable school design protocol standards exist for the type of building or facility, this subsection applies to major facility projects that have not received project approval from the superintendent of public

instruction prior to: (a) July 1, 2006, for volunteering school districts; (b) July 1, 2007, for class one school districts; and (c) July 1, 2008, for class two school districts.

(2) Public school districts under this section shall: (a) Monitor and document appropriate operating benefits and savings resulting from major facility projects designed and constructed as required under this section for a minimum of five years following local board acceptance of a project receiving state funding; and (b) report annually to the superintendent of public instruction. The form and content of each report must be mutually developed by the office of the superintendent of public instruction in consultation with school districts.

(3) The superintendent of public instruction shall consolidate the reports required in subsection (2) of this section into one report and report to the governor and legislature by September 1st of each even-numbered year beginning in 2006 and ending in 2016. In its report, the superintendent of public instruction shall also report on the implementation of this chapter, including reasons why the LEED standard or Washington sustainable school design protocol was not used as required by section 2(5)(b) of this act. The superintendent of public instruction shall make recommendations regarding the ongoing implementation of this chapter, including a discussion of incentives and disincentives related to implementing this chapter.

(4) The state board of education, in consultation with the superintendent of public instruction, shall develop and issue guidelines for administering this chapter for public school districts. The purpose of the guidelines is to define a procedure and method for employing and verifying compliance with the LEED silver standard or the Washington sustainable school design protocol.

(5) The superintendent of public instruction shall utilize the school facilities advisory board as a high-performance buildings advisory committee comprised of affected public schools, the state board of education, the superintendent of public instruction, the department, and others at the superintendent of public instruction's discretion to provide advice on implementing this chapter. Among other duties, the advisory committee shall make recommendations regarding an education and training process and an ongoing evaluation or feedback process to help the superintendent of public instruction and the state board of education implement this chapter.

NEW SECTION. **Sec. 5** On or before January 1, 2009, the department and the superintendent of public instruction shall summarize the reports submitted under sections 3(4) and 4(3) of this act and submit the individual reports to the legislative committees on capital budget and ways and means for review of the program's performance and consideration of any changes that may be needed to adapt the program to any new or modified standards for high-performance buildings that meet the intent of this chapter.

NEW SECTION. **Sec. 6** (1)(a) The department, in consultation with affected public agencies, shall develop and issue guidelines for administering this chapter for public agencies. The purpose of the guidelines is to define a procedure and method for employing and verifying activities necessary for certification to at least the LEED silver standard for major facility projects.

(b) The department and the office of the superintendent of public instruction shall amend their fee schedules for architectural and engineering services to accommodate the

requirements in the design of major facility projects under this chapter.

(c) The department and the office of the superintendent of public instruction shall procure architecture and engineering services consistent with chapter 39.80 RCW.

(d) Major facility projects designed to meet standards identified in this chapter must include building commissioning as a critical cost- saving part of the construction process. This process includes input from the project design and construction teams and the project ownership representatives.

(e) As provided in the request for proposals for construction services, the operating agency shall hold a preproposal conference for prospective bidders to discuss compliance with and achievement of standards identified in this chapter for prospective respondents.

(2) The department shall create a high-performance buildings advisory committee comprised of representatives from the design and construction industry involved in public works contracting, personnel from the affected public agencies responsible for overseeing public works projects, the state board of education, the office of the superintendent of public instruction, and others at the department's discretion to provide advice on implementing this chapter. Among other duties, the advisory committee shall make recommendations regarding an education and training process and an ongoing evaluation or feedback process to help the department implement this chapter.

(3) The department and the state board of education shall adopt rules to implement this section.

NEW SECTION. Sec. 7 A new section is added to chapter 28A.150 RCW to read as follows:

(1) In adopting implementation rules, the state board of education, in consultation with the superintendent of public instruction and the department of general administration, shall review and modify the current requirement for an energy conservation report review by the department of general administration as provided in WAC 180-27-075.

(2) In adopting implementation rules, the state board of education, in consultation with the superintendent of public instruction shall:

(a) Review and modify the current requirements for value engineering, constructability review, and building commissioning as provided in WAC 180-27-080;

(b) Review private and public utility providers' capacity and financial/technical assistance programs for affected public school districts to monitor and report utility consumption for purposes of reporting to the superintendent of public instruction as provided in section 4 of this act;

(c) Coordinate with the department of general administration, the state board of health, the department of ecology, federal agencies, and other affected agencies as appropriate in their consideration of rules to implement this section.

NEW SECTION. Sec. 8 A new section is added to chapter 28B.10 RCW to read as follows:

Institutions of higher education must comply with high-performance public building requirements under sections 1 through 3 and 6 of this act.

NEW SECTION. Sec. 9 A new section is added to chapter 28A.150 RCW to read as follows:

Public school districts must comply with high-performance public building requirements under sections 1, 2, 4, 6, and 7 of this act.

NEW SECTION. Sec. 10 A member of the design or construction teams may not be held liable for the failure of a major facility project to meet the LEED silver standard or other LEED standard established for the project as long as a good faith attempt was made to achieve the LEED standard set for the project.

NEW SECTION. Sec. 11 A new section is added to chapter 39.04 RCW to read as follows:

For purposes of determining compliance with chapter 39.-- RCW (sections 1 through 6, 10, and 12 through 14 of this act), the department of general administration shall credit the project for using wood products with a credible third party sustainable forest certification or from forests regulated under chapter 76.09 RCW, the Washington forest practices act.

NEW SECTION. Sec. 12 Except as provided in this section, affordable housing projects funded out of the state capital budget are exempt from the provisions of this chapter. On or before July 1, 2008, the department of community, trade, and economic development shall identify, implement, and apply a sustainable building program for affordable housing projects that receive housing trust fund (under chapter 43.185 RCW) funding in a state capital budget. The department of community, trade, and economic development shall not develop its own sustainable building standard, but shall work with stakeholders to adopt an existing sustainable building standard or criteria appropriate for affordable housing. Any application of the program to affordable housing, including any monitoring to track the performance of either sustainable features or energy standards or both, is the responsibility of the department of community, trade, and economic development. Beginning in 2009 and ending in 2016, the department of community, trade, and economic development shall report to the department as required under section 3(3)(b) of this act.

NEW SECTION. Sec. 13 It is the intent and an established goal of the LEED program as authored by the United States green building council to increase demand for building materials and products that are extracted and manufactured locally, thereby reducing the environmental impacts and to support the local economy. Therefore, it is the intent of the legislature to emphasize this defined goal and establish a priority to use Washington state based resources, building materials, products, industries, manufacturers, and other businesses to provide economic development to Washington state and to meet the objectives of this chapter.

NEW SECTION. Sec. 14 The joint legislative audit and review committee, or its successor legislative agency, shall conduct a performance review of the high-performance buildings program established under this chapter.

(1) The performance audit shall include, but not be limited to:

(a) The identification of the costs of implementation of high-performance building standards in the design and construction of major facility projects subject to this chapter;

(b) The identification of operating savings attributable to the implementation of high-performance building standards, including but not limited to savings in energy, utility, and maintenance costs;

(c) The identification of any impacts of high-performance buildings standards on worker productivity and student performance; and

(d) An evaluation of the effectiveness of the high-performance building standards established under this chapter, and recommendations for any changes in those standards that may be supported by the committee's findings.

(2) The committee shall make a preliminary report of its findings and recommendations on or before December 1, 2010, and a final report on or before July 1, 2011.

NEW SECTION. **Sec. 15** Sections 1 through 6, 10, and 12 through 14 of this act constitute a new chapter in Title 39 RCW.

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