
This Act requires the state department of community, trade, and economic development to implement a strategic plan to enhance energy efficiency in and reduce greenhouse gas emissions from homes, buildings, districts, and neighborhoods. It directs the department and the state building code council to convene a work group to develop the plan. The Act requires the state energy code be designed to accelerate construction of energy efficient homes and buildings which help achieve a broad goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031.

This legislation requires the state building code council adopt starter energy codes from 2013 through 2031 which incrementally move towards achieving seventy percent reduction in annual net energy consumption.

It requires utilities to:
- maintain records of the energy consumption data of all nonresidential and qualifying public agency buildings to which they provide service;
- create an energy benchmark for each reporting public facility using a portfolio manager;
- report the environmental protection agency national energy performance rating for each reporting public facility included in the technical requirements for this rating to the department of general administration; and
- link all portfolio manager accounts to the state portfolio manager master account to facilitate public reporting.

The bill requires the department of community, trade, and economic development to recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply.

This Act requires the department of general administration to:
- establish a state portfolio manager master account;
- select a standardized portfolio manager report for reporting public facilities;
- make the standard report of each reporting public facility available to the public through the portfolio manager web site;
- develop a technical assistance program to facilitate the implementation of a preliminary audit and the investment grade energy audit and design the program to utilize audit services provided by utilities or energy services contracting companies when possible; and
- conduct a review of facilities not covered by the national energy performance rating, and based on this review, develop a portfolio of additional facilities that require preliminary energy audits.

Submitted as:
Washington
Chapter 423, Laws of 2009
Status: Enacted into law in 2009.

Suggested State Legislation

(Title, enacting clause, etc.)
Section 1. [Short Title.] This Act shall be cited as “An Act to Promote Energy Efficiency in Buildings.”

Section 2. [Definitions.] Unless the context clearly requires otherwise, as used in this Act:

1. “Benchmark” means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

2. “Conditioned space” means conditioned space, as defined in the [state energy code].

3. “Consumer-owned utility” includes a municipal electric utility formed under [insert citation], a public utility district formed under [insert citation], an irrigation district formed under [insert citation], a cooperative formed under [insert citation], a mutual corporation or association formed under [insert citation], a port district formed under [insert citation], or a water-sewer district formed under [insert citation], that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

4. “Cost-effectiveness” means that a project or resource is forecast to be reliable and available within the time it is needed and to meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

5. “Council” means the [state building code council].

6. “Department” means the [department of community, trade, and economic development].

7. “Embodied energy” means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

8. “Energy consumption data” means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent [twelve-month] period.

9. “Energy service company” has the same meaning as in [insert citation].

10. “General administration” means the [department of general administration].

11. “Greenhouse gas” and “greenhouse gases” includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.


13. “Investor-owned utility” means a corporation owned by investors that meets the definition of “corporation” as defined in [insert citation] and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

14. “Major facility” means any publicly owned or leased building, or a group of such buildings at a single site, having [ten thousand square feet] or more of conditioned floor space.

15. “National energy performance rating” means the score provided by the Energy Star Program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States Environmental Protection Agency “ENERGY STAR® Performance Ratings Technical Methodology.”

16. “Net zero energy use” means a building with net energy consumption of zero over a typical [year].

17. “Portfolio manager” means the United States Environmental Protection Agency's Energy Star Portfolio Manager or an equivalent tool adopted by the [department].

18. “Preliminary energy audit” means a quick evaluation by an energy service company
Section 3. [Strategic Plan to Enhance Energy Efficiency In and Reduce Greenhouse Gas Emissions from Homes, Buildings, Districts, and Neighborhoods.]

(A) To the extent that funding is appropriated specifically for the purposes of this section, the [department] shall develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the future code increases in [insert citation], with targets for new buildings consistent with section 5 of this Act. The strategic plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future energy code updates and through complementary policies.

(B) The [department] must complete and release the strategic plan to the [legislature] and the [council] by [December 31, 2010], and update the plan every [three years].

(C) The strategic plan must include recommendations to the [council] on energy code upgrades. At a minimum, the strategic plan must:

1. Consider development of aspirational codes separate from the state energy code that contain economically and technically feasible optional standards that could achieve higher energy efficiency for those builders that elected to follow the aspirational codes in lieu of or in addition to complying with the standards set forth in the [state energy code];

2. Determine the appropriate methodology to measure achievement of [state energy code] targets using the United States Environmental Protection Agency’s Target Finder Program or equivalent methodology;

3. Address the need for enhanced code training and enforcement;

4. Include state strategies to support research, demonstration, and education programs designed to achieve a [seventy percent] reduction in annual net energy consumption as specified in section 5 of this Act and enhance energy efficiency and on-site renewable energy production in buildings;

5. Recommend incentives, education, training programs and certifications, particularly state-approved training or certification programs, joint apprenticeship programs, or labor-management partnership programs that train workers for energy-efficiency projects to ensure proposed programs are designed to increase building professionals’ ability to design, construct, and operate buildings that will meet the [seventy percent] reduction in annual net energy consumption as specified in section 5 of this Act;

6. Address barriers for utilities to serve net zero energy homes and buildings and
policies to overcome those barriers;

7. Address the limits of a prescriptive code in achieving net zero energy use homes and buildings and propose a transition to performance-based codes;

8. Identify financial mechanisms such as tax incentives, rebates, and innovative financing to motivate energy consumers to take action to increase energy efficiency and their use of on-site renewable energy. Such incentives, rebates, or financing options may consider the role of government programs as well as utility-sponsored programs;

9. Address the adequacy of education and technical assistance, including school curricula, technical training, and peer-to-peer exchanges for professional and trade audiences;

10. Develop strategies to develop and install district and neighborhood-wide energy systems that help meet net zero energy use in homes and buildings;

11. Identify costs and benefits of energy efficiency measures on residential and nonresidential construction; and

12. Investigate methodologies and standards for the measurement of the amount of embodied energy used in building materials.

(D) The [department] and the [council] shall convene a work group with affected parties to inform the initial development of the strategic plan.

Section 4. [State Energy Code.]

(A) The state [building code council] shall adopt rules to be known as the [state energy code] as part of the [state building code].

(B) The [council] shall follow the [legislature’s] standards set forth in this section to adopt rules to be known as the [state energy code]. The [state energy code] shall be designed to:

1. Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year [2031];

2. Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

3. Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(C) The [state energy code] shall take into account regional climatic conditions. [Climate zone [1] shall include [insert zones and counties as necessary].

(D) The [state energy code for residential buildings] shall be the [insert year] edition of the [state energy code], or as amended by rule by the [council].

(E) The minimum state energy code for new nonresidential buildings shall be the [insert year] edition of the [state energy code], or as amended by the [council] by rule.

(F) (1) Except as provided in (2) of this subsection, the [state energy code for residential structures] shall preempt the residential energy code of each city, town, and county in this state.

2. The [state energy code for residential structures] does not preempt a city, town, or county’s energy code for residential structures which exceeds the requirements of the [state energy code] and which was adopted by the city, town, or county prior to [March 1, 1990]. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to [March 1, 1990].

(G) The [state building code council] shall consult with the [department of community, trade, and economic development] as provided in [insert citation] prior to publication of proposed rules. The [director of the department of community, trade, and economic development] shall recommend to the [state building code council] any changes necessary to
conform the proposed rules to the requirements of this section.

(H) The [state building code council] shall evaluate and consider adoption of the [international energy conservation code] in this state in place of the existing [state energy code].

Section 5. [Reducing Annual Net Energy Consumption: Targets.]

(A) Except as provided in subsection (B) of this section, residential and nonresidential construction permitted under the [2031 state energy code] must achieve a [seventy percent] reduction in annual net energy consumption, using the adopted [insert date] [state energy code] as a baseline.

(B) The [council] shall adopt [state energy codes] from [2013 through 2031] that incrementally move towards achieving the [seventy percent] reduction in annual net energy consumption as specified in subsection (A) of this section. The [council] shall report its progress by [December 31, 2012, and every three years thereafter]. If the [council] determines that economic, technological, or process factors would significantly impede adoption of or compliance with this subsection, the [council] may defer the implementation of the proposed energy code update and shall report its findings to the [legislature] by [December 31st of the year prior to the year in which those codes would otherwise be enacted].

Section 6. [Recording Energy Consumption of Nonresidential and Qualifying Public Agency Buildings.]

(A) On and after [January 1, 2010], qualifying utilities shall maintain records of the energy consumption data of all nonresidential and qualifying public agency buildings to which they provide service. This data must be maintained for at least the most recent [twelve months] in a format compatible for uploading to the United States Environmental Protection Agency’s Energy Star Portfolio Manager.

(B) On and after [January 1, 2010], upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, a qualifying utility shall upload the energy consumption data for the accounts specified by the owner or operator for a building to the United States Environmental Protection Agency’s Energy Star Portfolio Manager in a form that does not disclose personally identifying information.

(C) In carrying out the requirements of this section, a qualifying utility shall use any method for providing the specified data in order to maximize efficiency and minimize overall program cost. Qualifying utilities are encouraged to consult with the United States Environmental Protection Agency and their customers in developing reasonable reporting options.

(D) Disclosure of nonpublic nonresidential benchmarking data and ratings required under subsection (E) of this section will be phased in as follows:

(1) By [January 1, 2011], for buildings greater than [fifty thousand square feet]; and

(2) By [January 1, 2012], for buildings greater than [ten thousand square feet].

(E) Based on the size guidelines in subsection (D) of this section, a building owner or operator, or their agent, of a nonresidential building shall disclose the United States Environmental Protection Agency’s Energy Star Portfolio Manager benchmarking data and ratings to a prospective buyer, lessee, or lender for the most recent [twelve-month] period. A building owner or operator, or their agent, who delivers United States Environmental Protection Agency’s Energy Star Portfolio Manager benchmarking data and ratings to a prospective buyer, lessee, or lender is not required to provide additional information regarding energy consumption, and the information is deemed to be adequate to inform the prospective buyer, lessee, or lender regarding the United States Environmental Protection
Agency’s Energy Star Portfolio Manager benchmarking data and ratings for the most recent [twelve-month] period for the building that is being sold, leased, financed, or refinanced.

(F) Notwithstanding subsections (D) and (E) of this section, nothing in this section increases or decreases the duties, if any, of a building owner, operator, or their agent under this chapter or alters the duty of a seller, agent, or broker to disclose the existence of a material fact affecting the real property.

Section 7. [Energy Performance Score for Residential Buildings.] By [December 31, 2009], to the extent that funding is appropriated specifically for the purposes of this section, the [department] shall develop and recommend to the [legislature] a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state’s existing housing supply. In developing its strategy, the [department] shall seek input from providers of residential energy audits, utilities, building contractors, mixed use developers, the residential real estate industry, and real estate listing and form providers.

Section 8. [Energy Benchmark.]

(A) The requirements of this section apply to the [department of general administration] and other qualifying state agencies only to the extent that specific appropriations are provided to those agencies referencing this Act or chapter number and this section.

(B) By [July 1, 2010], each qualifying public agency shall:

(1) Create an energy benchmark for each reporting public facility using a portfolio manager;

(2) Report to general administration, the Environmental Protection Agency national energy performance rating for each reporting public facility included in the technical requirements for this rating; and

(3) Link all portfolio manager accounts to the state portfolio manager master account to facilitate public reporting.

(C) By [January 1, 2010], [general administration] shall establish a state portfolio manager master account. The account must be designed to provide shared reporting for all reporting public facilities.

(D) By [July 1, 2010], [general administration] shall select a standardized portfolio manager report for reporting public facilities. [General administration], in collaboration with the United States Environmental Protection Agency, shall make the standard report of each reporting public facility available to the public through the portfolio manager web site.

(E) [General administration] shall prepare a [biennial] report summarizing the statewide portfolio manager master account reporting data. The first report must be completed by [December 1, 2012]. Subsequent reporting shall be completed every [two years] thereafter.

(F) By [July 1, 2010], [general administration] shall develop a technical assistance program to facilitate the implementation of a preliminary audit and the investment grade energy audit. [General administration] shall design the technical assistance program to utilize audit services provided by utilities or energy services contracting companies when possible.

(G) For a reporting public facility that is leased by the state with a national energy performance rating score below [seventy-five], a qualifying public agency may not enter into a new lease or lease renewal on or after [January 1, 2010], unless:

(1) A preliminary audit has been conducted within the last [two years]; and

(2) The owner or lessor agrees to perform an investment grade audit and implement any cost-effective energy conservation measures within the first [two years] of the lease agreement if the preliminary audit has identified potential cost-effective energy...
(H) (1) Except as provided in (2) of this subsection, for each reporting public facility with a national energy performance rating score below [fifty], the qualifying public agency, in consultation with [general administration], shall undertake a preliminary energy audit by [July 1, 2011]. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by [July 1, 2013]. Implementation of cost-effective energy conservation measures are required by [July 1, 2016]. For a major facility that is leased by a [state agency, college, or university], energy audits and implementation of cost-effective energy conservation measures are required only for that portion of the facility that is leased by the [state agency, college, or university].

(2) A reporting public facility that is leased by the state is deemed in compliance with (1) of this subsection if the qualifying public agency has already complied with the requirements of subsection (G) of this section.

(I) Schools are strongly encouraged to follow the provisions in subsections (B) through (H) of this section.

(J) The [director of the department of general administration], in consultation with the affected state agencies and the [office of financial management], shall review the cost and delivery of agency programs to determine the viability of relocation when a facility leased by the state has a national energy performance rating score below [fifty]. The [department of general administration] shall establish a process to determine viability.

(K) [General administration], in consultation with the [office of financial management], shall develop a waiver process for the requirements in subsection (G) of this section. The [director of the office of financial management], in consultation with [general administration], may waive the requirements in subsection (G) of this section if the [director] determines that compliance is not cost-effective or feasible. The [director of the office of financial management] shall consider the review conducted by the [department of general administration] on the viability of relocation as established in subsection (J) of this section, if applicable, prior to waiving the requirements in subsection (G) of this section.

(L) By [July 1, 2011], [general administration] shall conduct a review of facilities not covered by the national energy performance rating. Based on this review, [general administration] shall develop a portfolio of additional facilities that require preliminary energy audits. For these facilities, the qualifying public agency, in consultation with [general administration], shall undertake a preliminary energy audit by [July 1, 2012]. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by [July 1, 2013].