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**SUBSTITUTE HOUSE BILL 1747**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** House Technology, Energy & Communications (originally sponsored by Representatives Rolfes, Chase, Upthegrove, Hasegawa, Eddy, Lias, Ormsby, Pedersen, Dunshee, McCoy, Morris, Carlyle, Dickerson, Hudgins, Moeller, Sells, Kenney, White, and Nelson)

READ FIRST TIME 02/20/09.

1       AN ACT Relating to reducing climate pollution in the built  
2 environment; amending RCW 19.27A.020, 35.92.360, 54.16.280, and  
3 36.94.460; adding new sections to chapter 19.27A RCW; adding a new  
4 section to chapter 35.92 RCW; and creating a new section.

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

6       NEW SECTION.   **Sec. 1.**   (1) Buildings have a lifespan of fifty to  
7 one hundred years during which they continually consume energy and  
8 produce carbon dioxide emissions. Existing homes, commercial  
9 buildings, and public institutions consume seventy percent of the  
10 electricity load in Washington state and account for more than thirty  
11 percent of the state's carbon dioxide emissions. Those emissions need  
12 to decline in order to meet our state's climate pollution reduction  
13 requirements in RCW 70.235.020.

14       (2) Energy use in buildings is responsible for more than thirty  
15 percent of Washington's global warming emissions. Existing buildings  
16 are far and away the region's greatest energy wasters, and thus our  
17 greatest savings opportunity.

18       (3) State government can lead Washington into the clean energy

1 economy by making public buildings models of energy efficiency, while  
2 saving public dollars.

3 (4) Energy efficiency is the cheapest and fastest way to meet  
4 Washington's growing demand for electricity. A kilowatt saved is a  
5 kilowatt earned. Put another way, saving a kilowatt-hour through  
6 efficiency improvements frees up a kilowatt-hour to be used to meet our  
7 growing demand for electricity. Energy efficiency typically costs  
8 about three cents per kilowatt-hour saved compared with seven to twelve  
9 cents per kilowatt-hour for electricity generated by new power plants.

10 (5) The United States population and economy are projected to grow  
11 significantly over the coming decades, increasing the desire for new  
12 buildings to meet this demand, with approximately fifteen million new  
13 buildings projected to be constructed by 2015 nationwide.

14 (6) Making Washington homes and businesses more energy efficient  
15 reduces the load on our electricity grid, the energy interstate we all  
16 depend on and pay for. Washington's energy needs will grow along with  
17 predicted population growth. Everyone who pays an electricity bill  
18 broadly shares the cost of new power plants and power lines. Energy  
19 efficiency can defer and even replace the need for expensive new energy  
20 infrastructure helping to keep everyone's energy costs down and to meet  
21 projected energy demand growth.

22 (7) Energy efficiency investments also create good local jobs, so  
23 when utilities, businesses, or families invest in energy efficiency,  
24 they are investing in the local community and the regional economy.

25 (8) The Washington state energy code is updated every three years  
26 and reductions in energy use can be achieved by strengthening building  
27 codes for new buildings and major retrofits.

28 (9) Facilitating a benchmarking system that provides energy  
29 performance information for existing commercial and public buildings in  
30 the state would enable building owners and operators to better manage  
31 energy use and costs associated with those buildings.

32 (10) Up-front financing for energy efficiency improvements can be  
33 a barrier to investments in energy efficiency upgrades and needs to be  
34 addressed to rapidly increase energy efficiency, to reduce energy use,  
35 and to meet our state's climate goals.

36 (11) Low-income households pay a higher percentage of their income  
37 on energy bills than other households. Policies and programs should

1 focus on increasing home weatherization and energy conserving services  
2 to reduce energy bills.

3 (12) According to the American council for an energy efficient  
4 economy, improving buildings' energy efficiency by twenty percent by  
5 2030 could create an estimated eight hundred thousand net jobs  
6 nationwide, and improving buildings' energy efficiency by thirty  
7 percent could create up to one million three hundred thousand net jobs.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply to  
9 sections 1 through 3 and 5 through 8 of this act and RCW 19.27A.020  
10 unless the context clearly requires otherwise.

11 (1) "Benchmark" means the energy used by a facility as recorded  
12 monthly for at least one year and the facility characteristics  
13 information inputs required for a portfolio manager.

14 (2) "Conditioned space" means conditioned space, as defined in the  
15 Washington state energy code.

16 (3) "Consumer-owned utility" includes a municipal electric utility  
17 formed under Title 35 RCW, a public utility district formed under Title  
18 54 RCW, an irrigation district formed under chapter 87.03 RCW, a  
19 cooperative formed under chapter 23.86 RCW, a mutual corporation or  
20 association formed under chapter 24.06 RCW, a port district formed  
21 under Title 53 RCW, or a water-sewer district formed under Title 57  
22 RCW, that is engaged in the business of distributing electricity to one  
23 or more retail electric customers in the state.

24 (4) "Cost-effectiveness" means that a project or resource is  
25 forecast:

26 (a) To be reliable and available within the time it is needed; and

27 (b) To meet or reduce the power demand of the intended consumers at  
28 an estimated incremental system cost no greater than that of the least-  
29 cost similarly reliable and available alternative project or resource,  
30 or any combination thereof.

31 (5) "Council" means the state building code council.

32 (6) "Department" means the department of community, trade, and  
33 economic development.

34 (7) "Energy service company" has the same meaning as in RCW  
35 43.19.670.

36 (8) "General administration" means the department of general  
37 administration.

1 (9) "Greenhouse gas" and "greenhouse gases" includes carbon  
2 dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,  
3 and sulfur hexafluoride.

4 (10) "Investment grade energy audit" means an intensive engineering  
5 analysis of energy efficiency and management measures for the facility,  
6 net energy savings, and a cost-effectiveness determination.

7 (11) "Investor-owned utility" means a corporation owned by  
8 investors that meets the definition of "corporation" as defined in RCW  
9 80.04.010 and is engaged in distributing either electricity or natural  
10 gas, or both, to more than one retail electric customer in the state.

11 (12) "Major facility" means any publicly owned or leased building,  
12 or a group of such buildings at a single site, having ten thousand  
13 square feet or more of conditioned floor space.

14 (13) "National energy performance rating" means the score provided  
15 by the energy star program, to indicate the energy efficiency  
16 performance of the building compared to similar buildings in that  
17 climate as defined in the United States environmental protection agency  
18 "ENERGY STAR® Performance Ratings Technical Methodology."

19 (14) "Net zero energy use" means a building with net energy  
20 consumption of zero over a typical year as measured at utility meter.

21 (15) "Portfolio manager" means the United States environmental  
22 protection agency's energy star portfolio manager or an equivalent tool  
23 adopted by the department.

24 (16) "Preliminary energy audit" means a quick evaluation by an  
25 energy service company of the energy savings potential of a building.

26 (17) "Qualifying public agency" includes all state agencies,  
27 colleges, and universities.

28 (18) "Qualifying utility" means a consumer-owned or investor-owned  
29 gas or electric utility that serves more than twenty-five thousand  
30 customers in the state of Washington.

31 (19) "Reporting public facility" means any of the following:

32 (a) A building or structure, or a group of buildings or structures  
33 at a single site, owned by a qualifying public agency, that exceed ten  
34 thousand square feet of conditioned space;

35 (b) Buildings, structures, or spaces leased by a qualifying public  
36 agency that exceeds ten thousand square feet of conditioned space,  
37 where the qualifying public agency purchases energy directly from the  
38 investor-owned or consumer-owned utility;

1 (c) A wastewater treatment facility owned by a qualifying public  
2 agency; or

3 (d) Other facilities selected by the qualifying public agency.

4 (20) "State portfolio manager master account" means a portfolio  
5 manager account established to provide a single shared portfolio that  
6 includes reports for all the reporting public facilities.

7 NEW SECTION. **Sec. 3.** (1) The department shall develop and  
8 implement a strategic plan for enhancing energy efficiency in and  
9 reducing greenhouse gas emissions from homes, buildings, districts, and  
10 neighborhoods. The strategic plan must be used to direct the future  
11 code increases in RCW 19.27A.020, with targets for new buildings  
12 consistent with the schedule outlined in section 5 of this act. The  
13 strategic plan will identify barriers to achieving net zero energy use  
14 in homes and buildings and identify how to overcome these barriers in  
15 future energy code updates and through complementary policies.

16 (2) The department must complete and release the strategic plan to  
17 the legislature and the council by December 31, 2010, and update the  
18 plan every three years.

19 (3) The strategic plan must include recommendations to the council  
20 on energy code upgrades. At a minimum, the strategic plan must:

21 (a) Consider development of aspirational codes separate from the  
22 state energy code that contain economically and technically feasible  
23 optional standards that could achieve higher energy efficiency for  
24 those builders that elected to follow the aspirational codes in lieu of  
25 or in addition to complying with the standards set forth in the state  
26 energy code;

27 (b) Determine the appropriate methodology to measure achievement of  
28 state energy code targets using the United States environmental  
29 protection agency's target finder program or equivalent methodology;

30 (c) Address the need for enhanced code training and enforcement;

31 (d) Include state strategies to support research, demonstration,  
32 and education programs designed to achieve the targets in section 5 of  
33 this act and enhance energy efficiency and on-site renewable energy  
34 production in buildings;

35 (e) Recommend incentives, education, training programs and  
36 certifications, particularly state-approved training or certification  
37 programs, joint apprenticeship programs, or labor-management

1 partnership programs that train workers for energy-efficiency projects  
2 to ensure proposed programs are designed to increase building  
3 professionals' ability to design, construct, and operate buildings that  
4 meet the energy efficiency targets in section 5 of this act;

5 (f) Address barriers for utilities to serve net zero energy homes  
6 and buildings and policies to overcome those barriers;

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

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

15 (i) Address the adequacy of education and technical assistance,  
16 including school curricula, technical training, and peer-to-peer  
17 exchanges for professional and trade audiences; and

18 (j) Develop strategies to develop and install district and  
19 neighborhood-wide energy systems that help meet net zero energy use in  
20 homes and buildings.

21 (4) The department and the council shall convene a work group to  
22 inform the initial development of the strategic plan. Membership of  
23 the work group may include, but is not limited to, representatives  
24 from:

25 (a) A municipal code enforcement officer employed by a  
26 municipality;

27 (b) A residential builder;

28 (c) A commercial builder;

29 (d) An architect licensed in the state who is knowledgeable of  
30 environmentally sound building practices and standards, recommended by  
31 the American institute of architects Washington chapter;

32 (e) A professional engineer licensed in Washington state,  
33 recommended by a statewide association of structural engineers;

34 (f) A historic preservation representative, recommended by the  
35 Washington historic preservation commission, with experience  
36 implementing the state's standards for the treatment of historic  
37 properties;

38 (g) A conservation group working in energy efficiency;

- 1 (h) The Northwest power planning and conservation council;
- 2 (i) An investor-owned utility providing electricity service;
- 3 (j) An investor-owned utility providing natural gas service;
- 4 (k) A public utility district;
- 5 (l) A municipal electric utility;
- 6 (m) An electric cooperative;
- 7 (n) A representative of the energy services companies industry;
- 8 (o) A representative from the legal profession;
- 9 (p) A representative from a financial institution or entity
- 10 familiar with municipal bonds;
- 11 (q) An electrical engineer licensed in Washington state,
- 12 recommended by a statewide association of electrical engineers;
- 13 (r) A consulting design firm working on building renewable energy
- 14 solutions;
- 15 (s) A representative from a labor union representing workers in
- 16 energy or building and construction industries or labor affiliates
- 17 administering state-approved, joint apprenticeship programs or labor-
- 18 management partnership programs that train workers for these
- 19 industries;
- 20 (t) A representative of an equipment manufacturer; and
- 21 (u) A mechanical HVAC engineer licensed in Washington state,
- 22 recommended by a statewide association of mechanical HVAC engineers.

23 **Sec. 4.** RCW 19.27A.020 and 1998 c 245 s 8 are each amended to read  
24 as follows:

25 (1) (~~No later than January 1, 1991,~~) The state building code  
26 council shall adopt rules to be known as the Washington state energy  
27 code as part of the state building code.

28 (2) The council shall follow the legislature's standards set forth  
29 in this section to adopt rules to be known as the Washington state  
30 energy code. The (~~Washington~~) state energy code shall be designed  
31 to:

32 (a) Accelerate construction of increasingly energy efficient homes  
33 and buildings that help achieve the broader goal of building zero  
34 fossil-fuel greenhouse gas emission homes and buildings by the year  
35 2031;

36 (b) Require new buildings to meet a certain level of energy

1 efficiency, but allow flexibility in building design, construction, and  
2 heating equipment efficiencies within that framework(~~(. The Washington~~  
3 ~~state energy code shall be designed to)~~); and

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

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

11 (4) The Washington state energy code for residential buildings  
12 shall (~~require:~~

13 ~~(a) New residential buildings that are space heated with electric~~  
14 ~~resistance heating systems to achieve energy use equivalent to that~~  
15 ~~used in typical buildings constructed with:~~

16 ~~(i) Ceilings insulated to a level of R-38. The code shall contain~~  
17 ~~an exception which permits single rafter or joist vaulted ceilings~~  
18 ~~insulated to a level of R-30 (R value includes insulation only);~~

19 ~~(ii) In zone 1, walls insulated to a level of R-19 (R value~~  
20 ~~includes insulation only), or constructed with two by four members,~~  
21 ~~R-13 insulation batts, R-3.2 insulated sheathing, and other normal~~  
22 ~~assembly components; in zone 2 walls insulated to a level of R-24 (R~~  
23 ~~value includes insulation only), or constructed with two by six~~  
24 ~~members, R-22 insulation batts, R-3.2 insulated sheathing, and other~~  
25 ~~normal construction assembly components; for the purpose of determining~~  
26 ~~equivalent thermal performance, the wall U-value shall be 0.058 in zone~~  
27 ~~1 and 0.044 in zone 2;~~

28 ~~(iii) Below grade walls, insulated on the interior side, to a level~~  
29 ~~of R-19 or, if insulated on the exterior side, to a level of R-10 in~~  
30 ~~zone 1 and R-12 in zone 2 (R value includes insulation only);~~

31 ~~(iv) Floors over unheated spaces insulated to a level of R-30 (R~~  
32 ~~value includes insulation only);~~

33 ~~(v) Slab on grade floors insulated to a level of R-10 at the~~  
34 ~~perimeter;~~

35 ~~(vi) Double glazed windows with values not more than U-0.4;~~

36 ~~(vii) In zone 1 the glazing area may be up to twenty one percent of~~  
37 ~~floor area and in zone 2 the glazing area may be up to seventeen~~  
38 ~~percent of floor area where consideration of the thermal resistance~~

1 values for other building components and solar heat gains through the  
2 glazing result in thermal performance equivalent to that achieved with  
3 thermal resistance values for other components determined in accordance  
4 with the equivalent thermal performance criteria of (a) of this  
5 subsection and glazing area equal to fifteen percent of the floor area.  
6 Throughout the state for the purposes of determining equivalent thermal  
7 performance, the maximum glazing area shall be fifteen percent of the  
8 floor area; and

9 (viii) Exterior doors insulated to a level of R-5; or an exterior  
10 wood door with a thermal resistance value of less than R-5 and values  
11 for other components determined in accordance with the equivalent  
12 thermal performance criteria of (a) of this subsection.

13 (b) New residential buildings which are space heated with all other  
14 forms of space heating to achieve energy use equivalent to that used in  
15 typical buildings constructed with:

16 (i) Ceilings insulated to a level of R-30 in zone 1 and R-38 in  
17 zone 2 the code shall contain an exception which permits single rafter  
18 or joist vaulted ceilings insulated to a level of R-30 (R value  
19 includes insulation only);

20 (ii) Walls insulated to a level of R-19 (R value includes  
21 insulation only), or constructed with two by four members, R-13  
22 insulation batts, R-3.2 insulated sheathing, and other normal assembly  
23 components;

24 (iii) Below grade walls, insulated on the interior side, to a level  
25 of R-19 or, if insulated on the exterior side, to a level of R-10 in  
26 zone 1 and R-12 in zone 2 (R value includes insulation only);

27 (iv) Floors over unheated spaces insulated to a level of R-19 in  
28 zone 1 and R-30 in zone 2 (R value includes insulation only);

29 (v) Slab on grade floors insulated to a level of R-10 at the  
30 perimeter;

31 (vi) Heat pumps with a minimum heating season performance factor  
32 (HSPF) of 6.8 or with all other energy sources with a minimum annual  
33 fuel utilization efficiency (AFUE) of seventy-eight percent;

34 (vii) Double glazed windows with values not more than U-0.65 in  
35 zone 1 and U-0.60 in zone 2. The state building code council, in  
36 consultation with the department of community, trade, and economic  
37 development, shall review these U values, and, if economically

1 justified for consumers, shall amend the Washington state energy code  
2 to improve the U-values by December 1, 1993. The amendment shall not  
3 take effect until July 1, 1994; and

4 (viii) In zone 1, the maximum glazing area shall be twenty one  
5 percent of the floor area. In zone 2 the maximum glazing area shall be  
6 seventeen percent of the floor area. Throughout the state for the  
7 purposes of determining equivalent thermal performance, the maximum  
8 glazing area shall be fifteen percent of the floor area.

9 (c) The requirements of (b)(ii) of this subsection do not apply to  
10 residences with log or solid timber walls with a minimum average  
11 thickness of three and one half inches and with space heat other than  
12 electric resistance.

13 (d) The state building code council may approve an energy code for  
14 pilot projects of residential construction that use innovative energy  
15 efficiency technologies intended to result in savings that are greater  
16 than those realized in the levels specified in this section.

17 (5) U-values for glazing shall be determined using the area  
18 weighted average of all glazing in the building. U-values for vertical  
19 glazing shall be determined, certified, and labeled in accordance with  
20 the appropriate national fenestration rating council (NFRC) standard,  
21 as determined and adopted by the state building code council.  
22 Certification of U-values shall be conducted by a certified,  
23 independent agency licensed by the NFRC. The state building code  
24 council may develop and adopt alternative methods of determining,  
25 certifying, and labeling U-values for vertical glazing that may be used  
26 by fenestration manufacturers if determined to be appropriate by the  
27 council. The state building code council shall review and consider the  
28 adoption of the NFRC standards for determining, certifying, and  
29 labeling U-values for doors and skylights when developed and published  
30 by the NFRC. The state building code council may develop and adopt  
31 appropriate alternative methods for determining, certifying, and  
32 labeling U-values for doors and skylights. U-values for doors and  
33 skylights determined, certified, and labeled in accordance with the  
34 appropriate NFRC standard shall be acceptable for compliance with the  
35 state energy code. Sealed insulation glass, where used, shall conform  
36 to, or be in the process of being tested for, ASTM E-774-81 class A or  
37 better)) be the 2006 edition of the Washington state energy code, or as  
38 amended by rule by the council.

1       ~~((+6))~~ (5) The minimum state energy code for new nonresidential  
2 buildings shall be the Washington state energy code, ~~((1986))~~ 2006  
3 edition, or as amended by the council by rule.

4       ~~((+7))~~ (6)(a) Except as provided in (b) of this subsection, the  
5 Washington state energy code for residential structures shall preempt  
6 the residential energy code of each city, town, and county in the state  
7 of Washington.

8       (b) The state energy code for residential structures does not  
9 preempt a city, town, or county's energy code for residential  
10 structures which exceeds the requirements of the state energy code  
11 ~~((and which was adopted by the city, town, or county prior to March 1,~~  
12 ~~1990. Such cities, towns, or counties may not subsequently amend their~~  
13 ~~energy code for residential structures to exceed the requirements~~  
14 ~~adopted prior to March 1, 1990)).~~

15       ~~((+8))~~ (7) The state building code council shall consult with the  
16 department of community, trade, and economic development as provided in  
17 RCW 34.05.310 prior to publication of proposed rules. ~~((The department~~  
18 ~~of community, trade, and economic development shall review the proposed~~  
19 ~~rules for consistency with the guidelines adopted in subsection (4) of~~  
20 ~~this section.))~~ The director of the department of community, trade,  
21 and economic development shall recommend to the state building code  
22 council any changes necessary to conform the proposed rules to the  
23 requirements of this section.

24       (8) The definitions in section 2 of this act apply throughout this  
25 section.

26       NEW SECTION. Sec. 5. (1) The council shall adopt state energy  
27 codes that require homes and buildings constructed from 2016 through  
28 2031 to meet the following energy efficiency targets, using the adopted  
29 2006 Washington state energy code as a baseline:

30       (a) By 2013, new homes and buildings must be designed and  
31 constructed to achieve a forty percent reduction in energy use for that  
32 building type and climate zone;

33       (b) By 2016, new homes and buildings must be designed and  
34 constructed to achieve a forty-five percent reduction in energy use for  
35 that building type and climate zone;

36       (c) By 2019, new homes and buildings must be designed and

1 constructed to achieve a fifty percent reduction in energy use for that  
2 building type and climate zone;

3 (d) By 2022, new homes and buildings must be designed and  
4 constructed to achieve a fifty-five percent reduction in energy use for  
5 that building type and climate zone;

6 (e) By 2025, new homes and buildings must be designed and  
7 constructed to achieve a sixty percent reduction in energy use for that  
8 building type and climate zone;

9 (f) By 2028, new homes and buildings must be designed and  
10 constructed to achieve a sixty-five percent reduction in energy use for  
11 that building type and climate zone; and

12 (g) By 2031, new homes and buildings must be designed and  
13 constructed to achieve a seventy percent reduction in energy use for  
14 that building type and climate zone.

15 (2) If the council determines that economic, technological, or  
16 process factors would significantly impede adoption of or compliance  
17 with state energy codes incorporating the energy efficiency targets in  
18 subsection (1) of this section, the council shall report its findings  
19 to the legislature by December 31st of the year prior to the year in  
20 which those codes would otherwise be enacted under its proposed action  
21 plan.

22 NEW SECTION. **Sec. 6.** (1) On and after January 1, 2010, qualifying  
23 utilities shall maintain records of the energy consumption data of all  
24 nonresidential and qualifying public agency buildings to which they  
25 provide service. This data must be maintained for at least the most  
26 recent twelve months in a format compatible for uploading to the  
27 portfolio manager.

28 (2) On and after January 1, 2010, upon the written authorization or  
29 secure electronic authorization of a nonresidential building owner or  
30 operator, a qualifying utility shall upload all of the energy  
31 consumption data for the accounts specified for a building to the  
32 portfolio manager in a manner that preserves the confidentiality of the  
33 building owners and their tenants.

34 (3) In carrying out the requirements of this section, a qualifying  
35 utility shall use any method for providing the specified data in order  
36 to maximize efficiency and minimize overall program cost. Qualifying

1 utilities are encouraged to consult with the United States  
2 environmental protection agency and their customers in developing  
3 reasonable reporting options.

4 (4) Disclosure of nonpublic nonresidential building performance  
5 data will be phased in as follows:

6 (a) By January 1, 2011, for buildings greater than fifty thousand  
7 square feet; and

8 (b) By January 1, 2012, for buildings greater than ten thousand  
9 square feet.

10 (5) Based on the size guidelines in subsection (4) of this section,  
11 a property owner or operator, or their agent, of a nonresidential  
12 building shall complete and disclose the portfolio manager data and  
13 ratings for the most recent continuously occupied twelve-month period  
14 to a prospective buyer, lessee, or lender. If the data is delivered to  
15 a prospective buyer, lessee, or lender, a property owner, operator, or  
16 their agent is not required to provide additional information regarding  
17 energy consumption, and the information is deemed to be adequate to  
18 inform the prospective buyer, lessee, or lender regarding the portfolio  
19 manager data and ratings for the most recent twelve-month period for  
20 the building that is being sold, leased, financed, or refinanced.

21 (6) Notwithstanding subsections (4) and (5) of this section,  
22 nothing in this section increases or decreases the duties, if any, of  
23 a property owner, operator, or their agent under this chapter or alters  
24 the duty of a seller, agent, or broker to disclose the existence of a  
25 material fact affecting the real property.

26 NEW SECTION. **Sec. 7.** By December 31, 2009, the department shall  
27 recommend to the legislature a methodology to determine an energy  
28 performance score for residential buildings and an implementation  
29 strategy to use such information to improve the energy efficiency of  
30 the state's existing housing supply. In developing its strategy, the  
31 department shall seek input from providers of residential energy  
32 audits, building contractors, the residential real estate industry, and  
33 real estate listing and form providers.

34 NEW SECTION. **Sec. 8.** (1) By July 1, 2010, each qualifying public  
35 agency shall:

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

3 (b) Report to general administration, the environmental protection  
4 agency national energy performance rating for each reporting public  
5 facility included in the technical requirements for this rating; and

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

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

11 (3) By July 1, 2010, general administration shall select a  
12 standardized portfolio manager report for reporting public facilities.  
13 General administration, in collaboration with the United States  
14 environmental protection agency, shall make the standard report of each  
15 reporting public facility available to the public through the portfolio  
16 manager web site.

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

21 (5) By July 1, 2010, general administration shall develop a  
22 technical assistance program to facilitate the implementation of a  
23 preliminary audit and the investment grade energy audit. General  
24 administration shall design the technical assistance program to utilize  
25 audit services provided by utilities or energy services contracting  
26 companies when possible.

27 (6) For each reporting public facility with a national energy  
28 performance rating score below fifty, the qualifying public agency, in  
29 consultation with general administration, shall undertake a preliminary  
30 energy audit by July 1, 2011. If potential cost-effective energy  
31 savings are identified, an investment grade energy audit must be  
32 completed by July 1, 2013. Implementation of cost-effective energy  
33 conservation measures are required by July 1, 2016. For a major  
34 facility that is leased by a state agency, college, or university,  
35 energy audits and implementation of cost-effective energy conservation  
36 measures are required only for that portion of the facility that is  
37 leased by the state agency, college, or university.

1 (7) Schools are strongly encouraged to follow the provisions in  
2 subsections (1) through (6) of this section.

3 (8) The state may not renew leases with buildings that have a  
4 portfolio manager score below fifty.

5 (9) By July 1, 2011, general administration shall conduct a review  
6 of facilities not covered by the national energy performance rating.  
7 Based on this review, general administration shall develop a portfolio  
8 of additional facilities that require preliminary energy audits. For  
9 these facilities, the qualifying public agency, in consultation with  
10 general administration, shall undertake a preliminary energy audit by  
11 July 1, 2012. If potential cost-effective energy savings are  
12 identified, an investment grade energy audit must be completed by July  
13 1, 2013.

14 NEW SECTION. **Sec. 9.** A new section is added to chapter 35.92 RCW  
15 to read as follows:

16 (1) A city or county may engage in the sale or distribution of  
17 energy conservation services for the purpose of providing to its  
18 inhabitants and other persons services that lead to the more efficient  
19 consumption of energy resources, from whatever source generated.  
20 Municipalities undertaking energy conservation financing services or  
21 programs pursuant to this chapter shall coordinate with existing  
22 conservation programs and services offered by the electric or natural  
23 gas energy distribution utility or utilities serving that municipality  
24 and shall avoid duplicating such preexisting programs and services.

25 (2) For the purposes of meeting the state's goals relating to  
26 greenhouse gas emissions in RCW 70.235.020 and reducing the state's  
27 dependence on foreign oil, the provision of conservation services by a  
28 municipality under this section are declared to be a public use and a  
29 public and municipal purpose. A municipality that engages in  
30 conservation services under this section is declared to be engaged in  
31 the distribution of energy services for purposes of Article VIII,  
32 section 10 of the state Constitution, and is authorized to operate the  
33 loan programs authorized in RCW 35.92.360 or 54.16.280, as applicable.

34 (3) The legislative authority of the municipality has full  
35 authority to control the conservation services delivered, together with  
36 the right to handle and sell or lease any conservation equipment or

1 accessories of any kind, necessary and convenient for the use,  
2 distribution, and sale thereof.

3 (4) This authority is in addition to any authority granted in other  
4 law and does not limit or supplant the ability to provide conservation  
5 services through an existing electric, water, wastewater, or heating  
6 utility. The election procedures under RCW 35.92.070 and 54.08.070 and  
7 chapter 80.52 RCW or other law have no application to this section.  
8 Nothing in this section authorizes any municipality to generate,  
9 transmit, distribute, or sell electricity. Nothing in this section may  
10 be construed to restrain or limit the authority of any individual,  
11 partnership, corporation, or private utility from establishing and  
12 providing conservation services.

13 (5) For purposes of this section, "municipality" means any city,  
14 town, county, or public utility district.

15 **Sec. 10.** RCW 35.92.360 and 2002 c 276 s 2 are each amended to read  
16 as follows:

17 (1) Any city or town engaged in the generation, sale, or  
18 distribution of energy or in the sale and distribution of conservation  
19 services under section 9 of this act, is hereby authorized, within  
20 limits established by the Constitution of the state of Washington, to  
21 assist the owners of structures or equipment in financing the  
22 acquisition and installation of materials and equipment, for  
23 compensation or otherwise, for the conservation or more efficient use  
24 of energy in such structures or equipment pursuant to an energy  
25 conservation plan adopted by the city or town if the cost per unit of  
26 energy saved or produced by the use of such materials and equipment is  
27 less than the cost per unit of energy produced by the next least costly  
28 new energy resource which the city or town could acquire to meet future  
29 demand. Any financing authorized under this chapter shall only be used  
30 for conservation purposes in existing structures, and such financing  
31 shall not be used for any purpose which results in a conversion from  
32 one energy source to another.

33 (2) For the purposes of this section, "conservation purposes in  
34 existing structures" may include projects to allow a municipal electric  
35 utility's customers to generate all or a portion of their own  
36 electricity through the on-site installation of a distributed  
37 electricity generation system that uses as its fuel solar, wind,

1 geothermal, or hydropower, or other renewable resource that is  
2 available on-site and not from a commercial source. Such projects  
3 shall not be considered "a conversion from one energy source to  
4 another" which is limited to the change or substitution of one  
5 commercial energy supplier for another commercial energy supplier.

6 (3) Except where otherwise authorized, such assistance shall be  
7 limited to:

8 ((+1)) (a) Providing an inspection of the structure or equipment,  
9 either directly or through one or more inspectors under contract, to  
10 determine and inform the owner of the estimated cost of purchasing and  
11 installing conservation materials and equipment for which financial  
12 assistance will be approved and the estimated life cycle savings in  
13 energy costs that are likely to result from the installation of such  
14 materials or equipment;

15 ((+2)) (b) Providing a list of businesses who sell and install  
16 such materials and equipment within or in close proximity to the  
17 service area of the city or town, each of which businesses shall have  
18 requested to be included and shall have the ability to provide the  
19 products in a workmanlike manner and to utilize such materials in  
20 accordance with the prevailing national standards((-));

21 ((+3)) (c) Arranging to have approved conservation materials and  
22 equipment installed by a private contractor whose bid is acceptable to  
23 the owner of the residential structure and verifying such installation;  
24 and

25 ((+4)) (d) Arranging or providing financing for the purchase and  
26 installation of approved conservation materials and equipment. Such  
27 materials and equipment shall be purchased from a private business and  
28 shall be installed by a private business or the owner.

29 ((+5)) (4) Pay back ((shall)) may be in the form of incremental  
30 additions to the utility bill, billed either together with use charge  
31 or separately. Loans shall not exceed ((one hundred twenty)) two  
32 hundred forty months in length. The city or town may make assistance  
33 available in the form of grants made under this section for  
34 conservation improvements to existing structures owned or occupied by  
35 persons qualifying as poor or infirm consistent with the state  
36 Constitution.

37 (5) The legislative authority of the city or town shall approve the  
38 aggregate amount of such loans and repayment terms by ordinance and

1 may, by ordinance, delegate to staff to approve individual loans  
2 consistent with the terms set forth in the ordinance. The city or town  
3 and the property owner shall enter into a loan agreement setting forth  
4 the terms of the loan, which agreement may provide for acceleration in  
5 the event a loan installment is delinquent. In order to secure loans,  
6 the city or town may have a statutory lien on the property on which  
7 conservation improvements so financed are installed or constructed.  
8 The lien is paramount and superior to any other lien or encumbrance  
9 theretofore or thereafter created, except a lien for general taxes and  
10 special assessment district assessments. The loan is a lien upon  
11 property from the time the loan agreement is executed. If the  
12 legislative authority of the city or town has acted in good faith and  
13 without fraud in granting a loan, the loan is valid and enforceable as  
14 such and the lien upon the property is valid.

15 (6) The city or town may foreclose a lien in an action in the  
16 superior court. All or any of the tracts subject to such a lien may be  
17 proceeded against in a single action, and all parties appearing of  
18 record as owning or claiming to own or having an interest in or lien  
19 upon the tracts involved must be impleaded in the action as parties  
20 defendant. An action to foreclose a lien must be commenced within two  
21 years after the date the loan first becomes subject to acceleration  
22 under the loan documents. Liens to secure loans may be foreclosed in  
23 the manner provided by RCW 35.67.250, 35.67.260, and 35.67.270.

24 (7) Loans may be used to secure and repay general obligation or  
25 revenue bonds, notes, or other forms of indebtedness issued by or on  
26 behalf of the city or town. For the purpose of securing the payment of  
27 the principal of and interest on any bonds or notes, the city or town  
28 may create a reserve fund. The principal amount of any loan may  
29 include a proportionate share of the costs of issuing the bonds, notes,  
30 or other indebtedness, including funding a pooled reserve for the  
31 indebtedness, and may include up to an additional ten percent of the  
32 loan amount to fund a loan loss reserve specific to that loan.  
33 Conservation loans originated by a third party may be acquired by the  
34 proceeds of obligations secured by the loan revenues, but only if such  
35 loans meet the minimum origination requirements set by the legislative  
36 authority of the municipality under subsection (3) of this section and  
37 a loan agreement, in a form approved by the municipality, is validly  
38 assigned to the municipality.

1       (8) The amendments to this section made by this act apply  
2 prospectively and do not affect the validity of any loan issued under  
3 this section prior to the effective date of this section.

4       **Sec. 11.** RCW 54.16.280 and 2002 c 276 s 3 are each amended to read  
5 as follows:

6       (1) Any district is hereby authorized, within limits established by  
7 the Constitution of the state of Washington, to assist the owners of  
8 structures or equipment in financing the acquisition and installation  
9 of materials and equipment, for compensation or otherwise, for the  
10 conservation or more efficient use of energy in such structures or  
11 equipment pursuant to an energy conservation plan adopted by the  
12 district if the cost per unit of energy saved or produced by the use of  
13 such materials and equipment is less than the cost per unit of energy  
14 produced by the next least costly new energy resource which the  
15 district could acquire to meet future demand. Any financing authorized  
16 under this chapter shall only be used for conservation purposes in  
17 existing structures, and such financing shall not be used for any  
18 purpose which results in a conversion from one energy source to  
19 another.

20       (2) For the purposes of this section, "conservation purposes in  
21 existing structures" may include energy efficiency projects and  
22 projects to allow a district's customers to generate all or a portion  
23 of their own electricity through the on-site installation of a  
24 distributed electricity generation system that uses as its fuel solar,  
25 wind, geothermal, or hydropower, or other renewable resource that is  
26 available on-site and not from a commercial source. Such projects  
27 shall not be considered "a conversion from one energy source to  
28 another" which is limited to the change or substitution of one  
29 commercial energy supplier for another commercial energy supplier.

30       (3) Except where otherwise authorized, such assistance shall be  
31 limited to:

32       ~~((1))~~ (a) Providing an inspection of the structure or equipment,  
33 either directly or through one or more inspectors under contract, to  
34 determine and inform the owner of the estimated cost of purchasing and  
35 installing conservation materials and equipment for which financial  
36 assistance will be approved and the estimated life cycle savings in

1 energy costs that are likely to result from the installation of such  
2 materials or equipment;

3 ~~((+2))~~ (b) Providing a list of businesses who sell and install  
4 such materials and equipment within or in close proximity to the  
5 service area of the district, each of which businesses shall have  
6 requested to be included and shall have the ability to provide the  
7 products in a workmanlike manner and to utilize such materials in  
8 accordance with the prevailing national standards~~((-))~~;

9 ~~((+3))~~ (c) Arranging to have approved conservation materials and  
10 equipment installed by a private contractor whose bid is acceptable to  
11 the owner of the residential structure and verifying such installation;  
12 and

13 ~~((+4))~~ (d) Arranging or providing financing for the purchase and  
14 installation of approved conservation materials and equipment. Such  
15 materials and equipment shall be purchased from a private business and  
16 shall be installed by a private business or the owner.

17 ~~((+5))~~ (4) Pay back ~~((shall))~~ may be in the form of incremental  
18 additions to the utility bill, billed either together with use charge  
19 or separately. Loans shall not exceed ~~((one hundred twenty))~~ two  
20 hundred forty months in length. The district may make assistance  
21 available in the form of grants made under this section for  
22 conservation improvements to existing structures owned or occupied by  
23 persons qualifying as poor or infirm consistent with the state  
24 Constitution.

25 (5) The legislative authority of the district shall approve the  
26 aggregate amount of such loans and repayment terms by ordinance and  
27 may, by ordinance, delegate to staff to approve individual loans  
28 consistent with the terms set forth in the ordinance. The district and  
29 the property owner shall enter into a loan agreement setting forth the  
30 terms of the loan, which agreement may provide for acceleration in the  
31 event a loan installment is delinquent. In order to secure loans, the  
32 district may have a statutory lien on the property on which  
33 conservation improvements so financed are installed or constructed.  
34 The lien is paramount and superior to any other lien or encumbrance  
35 theretofore or thereafter created, except a lien for general taxes and  
36 special assessment district assessments. The loan is a lien upon  
37 property from the time the loan agreement is executed. If the

1 legislative authority of the district has acted in good faith and  
2 without fraud in granting a loan, the loan is valid and enforceable as  
3 such and the lien upon the property is valid.

4 (6) The district may foreclose a lien in an action in the superior  
5 court. All or any of the tracts subject to such a lien may be  
6 proceeded against in a single action, and all parties appearing of  
7 record as owning or claiming to own or having an interest in or lien  
8 upon the tracts involved must be impleaded in the action as parties  
9 defendant. An action to foreclose a lien must be commenced within two  
10 years after the date the loan first becomes subject to acceleration  
11 under the loan documents. Liens to secure loans may be foreclosed in  
12 the manner provided by RCW 35.67.250, 35.67.260, and 35.67.270.

13 (7) Loans may be used to secure and repay general obligation or  
14 revenue bonds, notes, or other forms of indebtedness issued by or on  
15 behalf of the district. For the purpose of securing the payment of the  
16 principal of and interest on any bonds or notes, the district may  
17 create a reserve fund. The principal amount of any loan may include a  
18 proportionate share of the costs of issuing the bonds, notes, or other  
19 indebtedness, including funding a pooled reserve for the indebtedness,  
20 and may include up to an additional ten percent of the loan amount to  
21 fund a loan loss reserve specific to that loan. Conservation loans  
22 originated by a third party may be acquired by the proceeds of  
23 obligations secured by the loan revenues, but only if such loans meet  
24 the minimum origination requirements set by the legislative authority  
25 of the municipality under subsection (3) of this section and a loan  
26 agreement, in a form approved by the district, is validly assigned to  
27 the district.

28 (8) The amendments to this section made by this act apply  
29 prospectively and do not affect the validity of any loan issued under  
30 this section prior to the effective date of this section.

31 **Sec. 12.** RCW 36.94.460 and 1992 c 25 s 3 are each amended to read  
32 as follows:

33 (1) Any county engaged in the sale or distribution of water or in  
34 the sale and distribution of energy services under section 9 of this  
35 act, is hereby authorized, within limits established by the  
36 Constitution of the state of Washington, to assist the owners of  
37 structures that are provided water or energy conservation services by

1 the county in financing the acquisition and installation of fixtures,  
2 systems, and equipment, for compensation or otherwise, for the  
3 conservation or more efficient use of water or energy in the structures  
4 under a water or energy conservation plan adopted by the county if the  
5 cost per unit of water saved or conserved by the use of the fixtures,  
6 systems, and equipment is less than the cost per unit of water supplied  
7 by the next least costly new water source available to the county to  
8 meet future demand.

9 (2) Except where otherwise authorized, assistance shall be limited  
10 to:

11 ((+1)) (a) Providing an inspection of the structure, either  
12 directly or through one or more inspectors under contract, to determine  
13 and inform the owner of the estimated cost of purchasing and installing  
14 conservation fixtures, systems, and equipment for which financial  
15 assistance will be approved and the estimated life cycle savings to the  
16 water system and the consumer that are likely to result from the  
17 installation of the fixtures, systems, or equipment;

18 ((+2)) (b) Providing a list of businesses that sell and install  
19 the fixtures, systems, and equipment within or in close proximity to  
20 the service area of the county, each of which businesses shall have  
21 requested to be included and shall have the ability to provide the  
22 products in a workmanlike manner and to utilize the fixtures, systems,  
23 and equipment in accordance with the prevailing national standards;

24 ((+3)) (c) Arranging to have approved conservation fixtures,  
25 systems, and equipment installed by a private contractor whose bid is  
26 acceptable to the owner of the structure and verifying the  
27 installation; and

28 ((+4)) (d) Arranging or providing financing for the purchase and  
29 installation of approved conservation fixtures, systems, and equipment.  
30 The fixtures, systems, and equipment shall be purchased or installed by  
31 a private business, the owner, or the utility.

32 (3) Pay back (~~shall~~) may be in the form of incremental additions  
33 to the utility bill, billed either together with (~~the~~) the use  
34 charge or separately. Loans shall not exceed (~~one hundred twenty~~)  
35 two hundred forty months in length. The county may make assistance  
36 available in the form of grants made under this section for  
37 conservation improvements to existing structures owned or occupied by

1 persons qualifying as poor or infirm consistent with the state  
2 Constitution.

3 (4) The legislative authority of the county shall approve the  
4 aggregate amount of such loans and repayment terms by ordinance and  
5 may, by ordinance, delegate to staff to approve individual loans  
6 consistent with the terms set forth in the ordinance. The county and  
7 the property owner shall enter into a loan agreement setting forth the  
8 terms of the loan, which agreement may provide for acceleration in the  
9 event a loan installment is delinquent. In order to secure loans, the  
10 county may have a statutory lien on the property on which conservation  
11 improvements so financed are installed or constructed. The lien is  
12 paramount and superior to any other lien or encumbrance theretofore or  
13 thereafter created, except a lien for general taxes and special  
14 assessment district assessments. The loan is a lien upon property from  
15 the time the loan agreement is executed. If the legislative authority  
16 of the county has acted in good faith and without fraud in granting a  
17 loan, the loan is valid and enforceable as such and the lien upon the  
18 property is valid.

19 (5) The county may foreclose a lien in an action in the superior  
20 court. All or any of the tracts subject to such a lien may be  
21 proceeded against in a single action, and all parties appearing of  
22 record as owning or claiming to own or having an interest in or lien  
23 upon the tracts involved must be impleaded in the action as parties  
24 defendant. An action to foreclose a lien must be commenced within two  
25 years after the date the loan first becomes subject to acceleration  
26 under the loan documents. Liens to secure loans may be foreclosed in  
27 the manner provided by RCW 35.67.250, 35.67.260, and 35.67.270.

28 (6) Loans may be used to secure and repay general obligation or  
29 revenue bonds, notes, or other forms of indebtedness issued by or on  
30 behalf of the county. For the purpose of securing the payment of the  
31 principal of and interest on any bonds or notes, the county may create  
32 a reserve fund. The principal amount of any loan may include a  
33 proportionate share of the costs of issuing the bonds, notes, or other  
34 indebtedness, including funding a pooled reserve for the indebtedness,  
35 and may include up to an additional ten percent of the loan amount to  
36 fund a loan loss reserve specific to that loan. Conservation loans  
37 originated by a third party may be acquired by the proceeds of  
38 obligations secured by the loan revenues, but only if such loans meet

1 the minimum origination requirements set by the legislative authority  
2 of the municipality under subsection (3) of this section and a loan  
3 agreement, in a form approved by the county, is validly assigned to the  
4 county.

5 (7) The amendments made to this section by this act apply  
6 prospectively and do not affect the validity of any loan issued under  
7 this section prior to the effective date of this section.

8 NEW SECTION. Sec. 13. Sections 2, 3, and 5 through 8 of this act  
9 are each added to chapter 19.27A RCW.

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