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SENATE BILL 5384

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State of Washington

61st Legislature

2009 Regular Session

By Senators Hargrove, Morton, and Hatfield

Read first time 01/21/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to high-performance public buildings; and amending  
2 RCW 39.35D.020, 39.35D.030, 39.35D.040, 39.35D.060, 39.35D.070, and  
3 39.35D.090.

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

5 **Sec. 1.** RCW 39.35D.020 and 2006 c 263 s 330 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

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

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

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

16 (4) "Globes standard" means the level of a building's  
17 sustainability and energy efficiency performance as determined by the  
18 green building initiative's green globes rating system.

1        (5) "Green globes rating system" means the environmental building  
2 rating system established by the green building initiative.

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

6        ~~((+5))~~ (7)(a) "Major facility project" means: (i) A construction  
7 project larger than five thousand gross square feet of occupied or  
8 conditioned space as defined in the Washington state energy code; or  
9 (ii) a building renovation project when the cost is greater than fifty  
10 percent of the assessed value and the project is larger than five  
11 thousand gross square feet of occupied or conditioned space as defined  
12 in the Washington state energy code.

13        (b) "Major facility project" does not include: (i) Projects for  
14 which the department, public school district, or other applicable  
15 agency and the design team determine the LEED silver standard, the  
16 globes standard, or the Washington sustainable school design protocol  
17 to be not practicable; or (ii) transmitter buildings, pumping stations,  
18 hospitals, research facilities primarily used for sponsored laboratory  
19 experimentation, laboratory research, or laboratory training in  
20 research methods, or other similar building types as determined by the  
21 department. When the LEED silver standard or the globes standard is  
22 determined to be not practicable for a project, then it must be  
23 determined if any LEED standard or globes standard is practicable for  
24 the project. If LEED standards, globes standard, or the Washington  
25 sustainable school design protocol are not followed for the project,  
26 the public school district or public agency shall report these reasons  
27 to the department.

28        ~~((+6))~~ (8) "Public agency" means every state office, officer,  
29 board, commission, committee, bureau, department, and public higher  
30 education institution.

31        ~~((+7))~~ (9) "Public school district" means a school district  
32 eligible to receive state basic education moneys pursuant to RCW  
33 28A.150.250 and 28A.150.260.

34        ~~((+8))~~ (10) "Washington sustainable school design protocol" means  
35 the school design protocol and related information developed by the  
36 office of the superintendent of public instruction, in conjunction with  
37 school districts and the school facilities advisory board.

1       **Sec. 2.** RCW 39.35D.030 and 2005 c 12 s 3 are each amended to read  
2 as follows:

3       (1) All major facility projects of public agencies receiving any  
4 funding in a state capital budget, or projects financed through a  
5 financing contract as defined in RCW 39.94.020, must be designed,  
6 constructed, and certified to at least the LEED silver standard or the  
7 globes standard. ~~((This subsection applies to major facility projects~~  
8 ~~that have not entered the design phase prior to July 24, 2005, and to~~  
9 ~~the extent appropriate LEED silver standards exist for that type of~~  
10 ~~building or facility.))~~

11       (2) All major facility projects of any entity other than a public  
12 agency or public school district receiving any funding in a state  
13 capital budget must be designed, constructed, and certified to at least  
14 the LEED silver standard or globes standard. ~~((This subsection applies~~  
15 ~~to major facility projects that have not entered the grant application~~  
16 ~~process prior to July 24, 2005, and to the extent appropriate LEED~~  
17 ~~silver standards exist for that type of building or facility.))~~

18       (3) All major facility projects of public agencies receiving any  
19 funding in a state capital budget, or projects financed through a  
20 financing contract as defined in RCW 39.94.020, that are four stories  
21 or under must use wood and wood products as building materials for  
22 construction.

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

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

29       ~~((+4))~~ (5) The department shall consolidate the reports required  
30 in subsection ~~((+3))~~ (4) of this section into one report and report to  
31 the governor and legislature by September 1st of each even-numbered  
32 year beginning in 2006 and ending in 2016. In its report, the  
33 department shall also report on the implementation of this chapter,  
34 including reasons why the LEED standard or globes standard was not used  
35 as required by RCW 39.35D.020~~((+5))~~ (7)(b). The department shall make  
36 recommendations regarding the ongoing implementation of this chapter,  
37 including a discussion of incentives and disincentives related to  
38 implementing this chapter.

1           **Sec. 3.** RCW 39.35D.040 and 2006 c 263 s 331 are each amended to  
2 read as follows:

3           (1) All major facility projects of public school districts  
4 receiving any funding in a state capital budget must be designed and  
5 constructed to at least the LEED silver standard, the globes standard,  
6 or the Washington sustainable school design protocol. To the extent  
7 appropriate LEED silver, the globes, or Washington sustainable school  
8 design protocol standards exist for the type of building or facility,  
9 this subsection applies to major facility projects that have not  
10 received project approval from the superintendent of public instruction  
11 prior to: (a) July 1, 2006, for volunteering school districts; (b)  
12 July 1, 2007, for class one school districts; and (c) July 1, 2008, for  
13 class two school districts.

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

22           (3) The superintendent of public instruction shall consolidate the  
23 reports required in subsection (2) of this section into one report and  
24 report to the governor and legislature by September 1st of each even-  
25 numbered year beginning in 2006 and ending in 2016. In its report, the  
26 superintendent of public instruction shall also report on the  
27 implementation of this chapter, including reasons why the LEED  
28 standard, the globes standards, or Washington sustainable school design  
29 protocol was not used as required by RCW 39.35D.020(~~(+5)~~) (7)(b). The  
30 superintendent of public instruction shall make recommendations  
31 regarding the ongoing implementation of this chapter, including a  
32 discussion of incentives and disincentives related to implementing this  
33 chapter.

34           (4) The superintendent of public instruction shall develop and  
35 issue guidelines for administering this chapter for public school  
36 districts. The purpose of the guidelines is to define a procedure and  
37 method for employing and verifying compliance with the LEED silver

1 standard, the globes standard, or the Washington sustainable school  
2 design protocol.

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

12 **Sec. 4.** RCW 39.35D.060 and 2006 c 263 s 332 are each amended to  
13 read as follows:

14 (1)(a) The department, in consultation with affected public  
15 agencies, shall develop and issue guidelines for administering this  
16 chapter for public agencies. The purpose of the guidelines is to  
17 define a procedure and method for employing and verifying activities  
18 necessary for certification to at least the LEED silver standard or the  
19 globes standard for major facility projects.

20 (b) The department and the office of the superintendent of public  
21 instruction shall amend their fee schedules for architectural and  
22 engineering services to accommodate the requirements in the design of  
23 major facility projects under this chapter.

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

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

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

36 (2) The department shall create a high-performance buildings  
37 advisory committee comprised of representatives from the design and

1 construction industry involved in public works contracting, personnel  
2 from the affected public agencies responsible for overseeing public  
3 works projects, the office of the superintendent of public instruction,  
4 and others at the department's discretion to provide advice on  
5 implementing this chapter. Among other duties, the advisory committee  
6 shall make recommendations regarding an education and training process  
7 and an ongoing evaluation or feedback process to help the department  
8 implement this chapter.

9 (3) The department and the office of the superintendent of public  
10 instruction shall adopt rules to implement this section.

11 **Sec. 5.** RCW 39.35D.070 and 2005 c 12 s 10 are each amended to read  
12 as follows:

13 A member of the design or construction teams may not be held liable  
14 for the failure of a major facility project to meet the LEED silver  
15 standard, the globes standard, or other LEED standard or globes  
16 standard established for the project as long as a good faith attempt  
17 was made to achieve the LEED or globes standard set for the project.

18 **Sec. 6.** RCW 39.35D.090 and 2005 c 12 s 13 are each amended to read  
19 as follows:

20 It is the intent and an established goal of the LEED program as  
21 authored by the United States green building council and the green  
22 globes rating system authored by the green building initiative to  
23 increase demand for building materials and products that are extracted  
24 and manufactured locally, thereby reducing the environmental impacts  
25 and to support the local economy. Therefore, it is the intent of the  
26 legislature to emphasize this defined goal and establish a priority to  
27 use Washington state based resources, building materials, products,  
28 industries, manufacturers, and other businesses to provide economic  
29 development to Washington state and to meet the objectives of this  
30 chapter.

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