

# SENATE BILL REPORT

## SB 6398

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As of January 31, 2012

**Title:** An act relating to energy efficient buildings.

**Brief Description:** Regarding energy efficient buildings.

**Sponsors:** Senators Ranker and Frockt.

**Brief History:**

**Committee Activity:** Energy, Natural Resources & Marine Waters: 1/30/12.

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### SENATE COMMITTEE ON ENERGY, NATURAL RESOURCES & MARINE WATERS

**Staff:** William Bridges (786-7416)

**Background:** Energy Consumption Reports for Utility Customers. Puget Sound Energy (PSE) and Seattle City Light have pilot programs providing residential customers with reports comparing their electricity or natural gas usage to other customers with homes of similar size and age in the same block or zip code. Customers receive the reports automatically in the mail and have the option to stop receiving future reports.

In 2009 the Legislature required gas or electric utilities with more than 25,000 customers in the state (qualifying utilities) to maintain energy consumption data for all nonresidential and qualifying public agency buildings to which they provide service. Upon written authorization of a nonresidential building owner or operator, a qualifying utility must upload all of the energy consumption data to the U.S. Environmental Protection Agency's energy star portfolio manager, which is an online energy management tool to track and assess energy and water consumption. By January 2011 or 2012, depending on building size, the property owner or operator of a nonresidential building must disclose energy performance data to prospective buyers, lessees, or lenders.

Strategic Plan for Enhancing Energy Efficiency. In 2009 the Legislature required the Department of Commerce (Commerce) to develop a strategic plan for enhancing energy efficiency and reducing greenhouse gases in homes, buildings, districts, and neighborhoods. The strategic plan, which was completed in December 2010, must be used to direct increases in energy efficiency in the State Building Code. Commerce must update the plan every three years.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Washington State Housing Finance Commission (HFC). Created by the Legislature to assist in making affordable housing available throughout the state, the HFC is authorized by federal law to issue tax-exempt revenue bonds to fund low-cost housing. The HFC does not use public funds nor does it lend the credit of the state. Under 2009 legislation, HFC bonds may be used to provide financing for energy efficiency improvements or net metered systems. The HFC is authorized to engage in educational programs promoting energy efficiency and renewable energy technologies.

Privacy of Utility Records. According to Washington Utilities and Transportation Commission (UTC) regulations, an investor-owned electric or gas utility may not disclose individual customer information to others for marketing purposes. Investor-owned utilities may have privacy policies more strict than the UTC's regulations. For example, under PSE's privacy policy, access to private consumer information is limited to authorized employees, agents and contractors with a business-related need for such access, including the provision of energy efficiency and conservation services that a customer opts into or otherwise authorizes.

The Public Records Act exempts the residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists by the public utility of which they are customers. Exceptions exist for child support enforcement and criminal investigations.

**Summary of Bill:** Requiring Statements of Energy Consumption. Each gas or electric utility with more than 1000 customers must provide a statement of energy consumption data to each of their residential customers. The statement must include a year-over-year comparison for that customer's usage based upon meter data and a ranking of that customer's usage compared to 100 similarly situated customers. The statement must be provided quarterly by utilities with more than 25,000 customers and twice a year for all other utilities. When a new customer account is created, that customer must receive the immediately preceding energy consumption statement provided to the previous occupant of the residence, unless the previous occupant has refused permission for the disclosure of such information.

Requiring the Collection of Energy Consumption Information. Each gas or electric utility that offers an asset rating or preliminary energy audit for residential customers must collect and maintain energy consumption and energy efficiency information regarding the residential structure. The type of information required must be established by rule by Commerce's energy policy division.

Requiring Preliminary Energy Audits. Each gas or electric utility with more than 25,000 customers must provide a preliminary energy audit when requested by a customer in connection with offering a residence for sale. The energy audit must be free to the customer and must include a minimum of three recommendations for reducing energy consumption specific to that residential structure.

Defining Preliminary Energy Audit and Asset Rating. The term preliminary energy audit means an evaluation by an energy service company, utility, or third-party building performance contractor that provides basic information on the energy savings potential of a building that is less comprehensive than an investment grade energy audit. Under the current

law, the term investment grade audit means an intensive engineering analysis of energy efficiency and management measures for a facility, net energy savings, and a cost-effectiveness determination.

The term asset rating means a value that represents the energy use of a building or unit, based on modeled energy use under standardized weather and occupancy conditions, and adjusted to account for variances in energy consumption.

Requiring Greater Energy Efficiency in Strategic Plan Updates. Beginning with the strategic plan update due December 31, 2012, the plan must analyze the ability of each electric utility to offer an asset rating or investment grade energy audit for a residential building when required by a customer or when requested by the buyer or seller at the time the building is sold or offered for sale. The strategic plan must analyze the benefits of performing the investment grade energy audit or asset rating as well as recommendations to overcome any statutory, regulatory, financial, or other barriers to providing the investment grade energy audit or asset rating

Authorizing the HFC to Engage in Educational Programs. The HFC is authorized to engage in educational programs that encourage the recognition of energy efficient features in real estate.

Authorizing Investor-Owned Utilities to Release Energy Consumption Information. Investor-owned gas or electric utilities regulated by the UTC may provide energy consumption usage information based solely upon meter records unless the customer refuses to allow the disclosure of this information. The information provided must be consistent with a utility's duty to provide statements of energy consumption data, asset ratings, or preliminary energy audits. Each utility must provide notice to customers of the opportunity to opt out of this disclosure. Utilities must allow 60 days following the notification to a customer before disclosing energy consumption data and must provide a written annual notice to customers of the opportunity to refuse permission to disclose this information.

Findings. Various findings are made concerning the importance of energy efficiency and the challenges of requiring a consistent and sustained effort to achieve it.

A severability clause is provided.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Because the human factor is important in energy efficiency, the information provided by energy audits is crucial for making wise consumers. Washington cannot rest on the laurels of its past conservation achievements. Energy efficiency makes spaces more comfortable and less expensive; it also drives

economic activity. Energy consumption reports are already being used by utilities across the nation and in this state to great success because home owners are motivated by comparisons. The bill should also include utility rebates for full energy audits. The bill promotes activities that will strengthen the public's increasing understanding of the value of energy efficiency.

CON: There are significant concerns about the cost of requiring utilities to provide free energy use reports, home performance ratings, and point-of-sale energy audits to customers. Tacoma estimates costs of \$2 million to run an energy consumption reporting system. The bill is too prescriptive and does not take into account more cost-effective conservation activities already engaged in by utilities. A point-of-sale mandate for utility-conducted energy audits is not the best approach; the home inspection process should be used instead to promote energy audits. Energy audits are not cost-effective for new homes. The bill requires utilities to collect data during energy audits but does not specify the kind data, the purpose of the collection, nor who is to pay to for analyzing the data. Small utilities may not be able to come up with 100 similarly situated customers required in the energy reports.

OTHER: Seattle estimates a cost of \$3 million to run a utility-wide energy consumption reporting system, which would result in a nearly 0.5 percent rate increase. Seattle's pilot program that provides energy consumption reports will be completed in 2013, but some concerns from home-operated businesses have already been raised. Investor-owned utilities have strict privacy policies that will need to change in order to accommodate an energy consumption reporting system, and the software to run these programs are expensive.

**Persons Testifying:** PRO: David Bangs, Home Performance WA; Kim Drury, NW Energy Coalition; Steve Gelb, Sustainable Works; Rashad Morris, WA Environmental Council.

CON: Bill Clarke, WA Realtors; Kent Lopez, WA Rural Electric Cooperatives; Robert Mack, Tacoma Public Utilities.

OTHER: Kathleen Collins, PacifiCorp; Rose Feliciano, Seattle City Light.