

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5509**

59th Legislature  
2005 Regular Session

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

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**President of the Senate**

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

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

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

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5509**

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Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

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

READ FIRST TIME 03/02/05.

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

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

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

12            (2) It is the intent of the legislature that state-owned buildings  
13 and schools be improved by adopting recognized standards for high-  
14 performance public buildings and allowing flexible methods and choices  
15 in how to achieve those standards. The legislature also intends that  
16 public agencies and public school districts shall document costs and  
17 savings to monitor this program and ensure that economic, community,  
18 and environmental goals are achieved each year, and that an independent

1 performance review be conducted to evaluate this program and determine  
2 the extent to which the results intended by this chapter are being met.

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

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

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

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

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

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

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

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

1 (7) "Public school district" means a school district eligible to  
2 receive state basic education moneys pursuant to RCW 28A.150.250 and  
3 28A.150.260.

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

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

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

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

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

30 (4) The department shall consolidate the reports required in  
31 subsection (3) of this section into one report and report to the  
32 governor and legislature by September 1st of each even-numbered year  
33 beginning in 2006 and ending in 2016. In its report, the department  
34 shall also report on the implementation of this chapter, including  
35 reasons why the LEED standard was not used as required by section 2  
36 (5)(b) of this act. The department shall make recommendations

1 regarding the ongoing implementation of this chapter, including a  
2 discussion of incentives and disincentives related to implementing this  
3 chapter.

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

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

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

34 (4) The state board of education, in consultation with the  
35 superintendent of public instruction, shall develop and issue  
36 guidelines for administering this chapter for public school districts.

1 The purpose of the guidelines is to define a procedure and method for  
2 employing and verifying compliance with the LEED silver standard or the  
3 Washington sustainable school design protocol.

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

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

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

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

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

35 (d) Major facility projects designed to meet standards identified  
36 in this chapter must include building commissioning as a critical cost-

1 saving part of the construction process. This process includes input  
2 from the project design and construction teams and the project  
3 ownership representatives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 NEW SECTION. **Sec. 12.** Except as provided in this section,  
28 affordable housing projects funded out of the state capital budget are  
29 exempt from the provisions of this chapter. On or before July 1, 2008,  
30 the department of community, trade, and economic development shall  
31 identify, implement, and apply a sustainable building program for  
32 affordable housing projects that receive housing trust fund (under  
33 chapter 43.185 RCW) funding in a state capital budget. The department

1 of community, trade, and economic development shall not develop its own  
2 sustainable building standard, but shall work with stakeholders to  
3 adopt an existing sustainable building standard or criteria appropriate  
4 for affordable housing. Any application of the program to affordable  
5 housing, including any monitoring to track the performance of either  
6 sustainable features or energy standards or both, is the responsibility  
7 of the department of community, trade, and economic development.  
8 Beginning in 2009 and ending in 2016, the department of community,  
9 trade, and economic development shall report to the department as  
10 required under section 3(3)(b) of this act.

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

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

- 25 (1) The performance audit shall include, but not be limited to:
- 26 (a) The identification of the costs of implementation of high-  
27 performance building standards in the design and construction of major  
28 facility projects subject to this chapter;
- 29 (b) The identification of operating savings attributable to the  
30 implementation of high-performance building standards, including but  
31 not limited to savings in energy, utility, and maintenance costs;
- 32 (c) The identification of any impacts of high-performance buildings  
33 standards on worker productivity and student performance; and
- 34 (d) An evaluation of the effectiveness of the high-performance  
35 building standards established under this chapter, and recommendations

1 for any changes in those standards that may be supported by the  
2 committee's findings.

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

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

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