STATE OF RHODE ISLAND
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2022

A N A C T
RELATING TO PUBLIC PROPERTY AND WORKS -- THE GREEN BUILDINGS ACT

Introduced By: Representatives Kislak, McGaw, Speakman, Edwards, Morales, Cassar, Cortvriend, Potter, and Tanzi
Date Introduced: March 04, 2022
Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

SECTION 1. Section 37-24-3 of the General Laws in Chapter 37-24 entitled "The Green Buildings Act" is hereby amended to read as follows:


For purposes of this chapter, the following definitions shall apply:

(1) "Commercial building" means a building or multiple buildings on a parcel of which not less than fifty percent (50%) of the gross floor area, including hallways or other common space, but excluding parking, is used for commercial, retail, office, professional, educational or other nonresidential purposes, or any grouping of commercial buildings designated by the department or office as an appropriate reporting unit for the purposes of this section; provided, however, that "commercial building" shall not include a building owned or leased by a municipal or state agency.

(2) "Construction" means the process of building, altering, repairing, improving, or demolishing forty percent (40%) or more of any public structures or buildings, or other public improvements of any kind to any public real property.

(3) "Department" means the department of administration.

(4) "Energy" means electricity, natural gas, steam, hot or chilled water, heating oil, propane or other products designated by the office used for heating, cooling, lighting, or water heating, or for powering or fueling other end uses.

(5) "Energy performance rating or assessment score" means a score assigned to a building based on how efficiently it uses energy relative to other buildings of the same type. The office shall
promulgate regulations to establish the scoring system.

(6) "Energy use benchmarking tool" means the ENERGY STAR Portfolio Manager, an online energy use benchmarking tool used by the United States Environmental Protection Agency for reporting and managing the energy performance, water efficiency and greenhouse gas emissions of building, or a tool capable of:

(i) Performing all the functions relevant to compliance with this section;
(ii) Allowing for reporting by third parties, including, but not limited to, gas distribution and electric distribution companies; and
(iii) Exchanging information and data with the ENERGY STAR Portfolio Manager.

(7) "Equivalent standard" means a high-performance green building standard, other than LEED, LEED for Neighborhood Development, and SITES, that provides a rating system or measurement tool, that, when used, leads to outcomes, similar or equivalent to, LEED, LEED for Neighborhood Development, and SITES outcomes, in terms of green building, green infrastructure, and green site performance; current accepted equivalent standards include green globes, Northeast collaborative high-performance schools protocol; or other equivalent high-performance green building, green infrastructure, and green site standards accepted by the department office.

(8) "kBTU" means one thousand (1,000) British thermal units.

(9) "Large building" means a building that meets any of the following criteria:

(i) Buildings owned or leased by a municipality, state agency, or other government or quasi-government entity consisting of not less than ten thousand square feet (10,000 sq. ft.) of gross floor area;

(ii) As of January 1, 2022, residential or commercial buildings consisting of not less than twenty five thousand square feet (25,000 sq. ft.) of gross floor area;

(iii) As of January 1, 2025, residential or commercial buildings consisting of not less than twenty thousand square feet (20,000 sq. ft.) of gross floor area; and

(4) As of January 1, 2028, residential or commercial buildings consisting of not less than fifteen thousand square feet (15,000 sq. ft.) of gross floor area.

(10) "LEED" also, "LEED for Neighborhood Development, and SITES certified standard" means the current version of the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard referred to as LEED, LEED for Neighborhood Development, and SITES certified. SITES means the U.S. Green Building Council's Sustainable Sites Initiative.

(11) "Major facility project" means:

(i) A building construction project larger than five thousand (5,000) gross square feet of
occupied or conditioned space, and its public real-property site; or

(ii) A building renovation project larger than ten thousand (10,000) gross square feet of
occupied or conditioned space, and its public real-property site.

(12) "Public agency" means every state office, board, commission, committee, bureau,
department, or public institution of higher education.

(13) "Public facility" means any public institution, public facility, public equipment, or
any physical asset owned, including its public real-property site, leased or controlled in whole or
in part by this state or any agency or political subdivision thereof.

(14) "Office" means the office of energy resources.

(15) "Owner" means the owner of record of a building, or a designated agent thereof,
including, but not limited to, the association or organization of unit owners responsible for
management in the case of a condominium, the board of directors in the case of a cooperative
apartment corporation, and the net lessee in the case of a building subject to a net lease with a term
of not less than forty-nine (49) years, inclusive of all renewal options.

(16) "Residential building" means a building or multiple buildings on a parcel of which
not less than fifty percent (50%) of the gross floor area, including hallways and other common
space serving residents, but excluding parking, is used for dwelling purposes, or any grouping of
residential buildings designated by the office or a municipality as an appropriate reporting unit for
the purposes of this chapter; provided, however, that "residential building" shall not include a
building owned or leased by a municipal or state agency.

(17) "Tenant" means any tenant, tenant-stockholder of a cooperative apartment
corporation, or condominium unit owner.

hereby amended by adding thereto the following section:


(a) For large buildings, the office shall undertake energy use benchmarking to determine
whether each building utilizes more or less energy, and emits more or less greenhouse gases, than
buildings of comparable size, occupancies and uses, and to inform a statewide analysis of energy
use trends and opportunities to increase energy efficiency and reduce greenhouse gas emissions.
To conduct the benchmarking, the office shall create, procure, or designate an energy use
benchmarking tool and shall provide technical support and assistance on the use of the
benchmarking tool to the owners of buildings subject to this section.

(b)(1) To administer this section, the office may designate subcategories within each
building type and occupancy, and may establish different reporting requirements and energy
performance standards for each subcategory. In establishing reporting requirements and energy
performance standards, the office may consider whether tenant-occupied units or spaces are
separately metered.

(2) Not later than January 31 of each year, beginning in 2023, the owner of each large
building shall report their energy use for the prior calendar year to the office. The office shall
provide a paper form or online portal for the submission of this information. The office shall
determine what information is necessary to request, and will request, at a minimum, the information
in subsection (c) of this section. The owner of a building subject to this section may authorize a gas
or electric distribution company or other third party to report building-specific data to the office,
and the gas or electric distribution company shall report building-specific data to the office upon
such authorization; provided, however, that such authorization shall not relieve an owner from
compliance with this section.

(3) Annually, an owner of a large building with separately-metered and tenant-occupied
units or spaces shall request from each tenant of the building all information necessary to comply
with the requirements of subsection (b)(2) of this section and each tenant shall report the required
information to the owner. The owner of a large building may bypass individual authorization and
request the electric and gas distribution companies to provide the aggregate energy consumption of
all meters in the building, including tenant-occupied units and separately-metered units, and the
electric and gas distribution companies shall provide the data to the building owner, separated by
month and consumption by source. Failure of an owner to report energy use information to the
office shall not impose liability on a tenant.

(4) The office shall establish a deadline extension or hardship waiver process for owners
who, in the judgment of the office, demonstrate cause for a deadline extension or hardship waiver.

(5) If an occupied building subject to the requirements of this section is transferred, the
buyer shall make reasonable efforts to report energy use information for the building for the entire
calendar year, if practicable.

(c) Annually, not later than March 31, the office shall make available on its executive
climate change website and dashboard required by § 42-6.2-3(13) energy use information and data
for the preceding calendar year for each large building, on a building-by-building basis. For each
building, the information made available shall include, but not be limited to:

(1) The address of the building and the municipality in which the building is located;

(2) The owner of the building;

(3) The building’s total energy use in kBTU, total greenhouse gas emissions in pounds of
carbon dioxide equivalent, total square footage, energy intensity in kBTU per square foot and
greenhouse gas emissions per square foot in pounds of carbon dioxide equivalent per square foot;

(4) The breakdown of the building’s energy use by electricity, gas, steam and other sources;

and

(5) An energy performance rating or assessment score. The office shall utilize such practices as are necessary to prevent the public disclosure of personal information regarding owners and tenants, and maintain a quality assurance process to improve the accuracy and completeness of the available information. The office shall provide owners with the opportunity to submit contextual information related to energy use in their buildings and shall disclose such information on its website upon request by the owner.

(d) The office shall make available to a regional planning agency, municipality or other public agency requesting such information any data set forth in this section.

(e) The office shall prepare an annual comprehensive report on the energy performance of large buildings utilizing the information and data collected pursuant to this section. The report shall include, but not be limited to, an analysis of energy performance, greenhouse gas emissions, and energy sources by building size, occupancy, and use. The report shall also include, when available, energy performance and greenhouse gas emissions over time. The report shall be posted on the office’s website and sent to the house committee on environment and natural resources and the senate committee on environment and agriculture not later than March 31.

(f) On the basis of the comprehensive reports prepared by the office pursuant to subsection (e) of this section and other information and data as deemed necessary by the commissioner of energy resources, the commissioner shall conduct an annual review of trends in the energy performance of large buildings and recommend changes to state laws, regulations, policies, and programs to achieve further energy reductions.

(g) The office shall ensure that electric distribution companies provide owners of buildings subject to this section with up-to-date information about energy efficiency opportunities or actions available to increase energy efficiency, including incentives in utility-administered or other energy efficiency programs and changes in energy assessment technology. The office shall prioritize those buildings that have not demonstrated year-to-year improvement in their energy performance rating or assessment score.

(h)(1) The office shall establish energy performance standards for each building type. The office shall establish these standards on the following schedule:

(i) Buildings owned or leased by a municipality, state agency, or other government or quasi-government entity consisting of not less than ten thousand square feet (10,000 sq. ft.) of gross floor area, and residential or commercial buildings consisting of not less than twenty-five thousand
(ii) Residential or commercial buildings, consisting of not less than twenty thousand square feet (20,000 sq. ft.) of gross floor area: no later than December 31, 2026, and every five (5) years thereafter; and

(iii) Residential or commercial buildings, consisting of not less than fifteen thousand square feet (15,000 sq. ft.) of gross floor area: no later than December 31, 2029, and every five (5) years thereafter.

(2) The office shall establish reporting and data verification requirements for each five (5) year compliance cycle. These standards shall apply only to large buildings.

(3) In developing energy performance standards, the office shall maximize opportunities for the state to achieve the requirements of § 42.6.2-2, as well as other laws and policies related to climate change, emissions reductions, energy efficiency, and renewable energy.

(4) The office may establish campus-wide energy performance standards for post-secondary educational institutions and hospitals with multiple buildings in a single location that are owned by a single entity; provided that, the development of any standard by the office shall be based upon an analysis of the existing building efficiency of each campus and the compliance pathways shall achieve savings comparable to those outlined in subsection (h)(4) of this section.

(5) The office shall set energy performance standards that are at least as strong as the median energy performance rating or assessment score of large buildings of each building type.

(i) (A) For the initial five (5) year compliance cycle, owners of large buildings with an energy performance rating or assessment score lower than the energy performance standard established by the office must satisfy one of the following compliance pathways:

(B) An energy performance pathway, which shall require a building to demonstrate a decrease in normalized site energy use averaged over the last two (2) years of the five (5) year compliance cycle, as compared to the normalized site energy use averaged over the last two (2) years preceding the first year of the five (5) year compliance cycle; or

(ii) An emissions performance pathway, which shall require a building to demonstrate a decrease in normalized site greenhouse gas emissions over the last two (2) years of the five (5) year compliance cycle, as compared to the normalized site greenhouse gas emissions averaged over the two (2) years preceding the first year of the five (5) year compliance cycle; provided that, switching from oil or another fuel to natural gas for space heating or water heating shall not count toward a building’s compliance with this pathway. The office shall require large buildings subject to the requirements of this subsection to reduce normalized site energy use or greenhouse gas emissions.
by at least twenty percent (20%) over the initial five (5) year compliance cycle, and may require
greater reductions if the office finds that it is feasible to do so and will help achieve the state’s
enforceable greenhouse gas emissions targets under § 42-6.2-2. The office must hold at least one
public hearing before setting the required reduction in normalized site energy use or greenhouse
gas emissions over the initial five (5) year compliance cycle.

(2) For subsequent five (5) year compliance cycles, the office shall establish energy
performance standards and compliance pathways designed to achieve emissions and energy
reduction targets; provided that, the compliance pathways shall maximize the potential to reduce
greenhouse gas emissions from large buildings by at least eighty percent (80%) by 2040, compared
to the baseline level of emissions in 2022, and to achieve the state greenhouse gas emissions limits
under the state’s enforceable greenhouse gas emissions targets under § 42-6.2-2.

(i) The office shall establish exemption criteria for large buildings to delay compliance
with the energy performance standards for up to three (3) years if the owner demonstrates, to the
satisfaction of the office, financial distress, change of ownership, vacancy, major renovation,
pending demolition, or other acceptable circumstances determined by the office by regulation.

(k) The office shall coordinate with utility companies and the public utilities commission
to establish incentive and financial assistance programs for owners to meet energy performance
standards.

(l)(1) Municipalities may establish and enforce energy use benchmarking programs or
energy performance standards for buildings, in lieu of the programs and standards established by
the office; provided that, the following conditions are met:

(i) The municipality uses an energy use benchmarking tool that collects information similar
to the energy use benchmarking tool used by the state;

(ii) Annually, not later than July 1, the municipality collects and forwards to the office, on
a building-by-building basis, the required energy use information from the previous calendar year,
using standardized units of measure and formats established by the office; and

(iii) Energy performance standards established by the municipality result in reductions in
energy use and greenhouse gas emissions that are comparable to or greater than the standards
established by the office. Municipalities may set lower gross floor area thresholds for buildings
subject to their programs and standards.

(2) The office shall review requests from municipalities to establish their own programs,
and the office may deny requests if it is not satisfied that the above conditions are met. The office
shall evaluate any municipal programs established under this subsection at least once every five (5)
years, and may withdraw its approval if municipal programs fail to comply with the above
conditions.

(3) The office shall include data from all municipalities, including municipalities with their own energy use benchmarking programs or energy performance standards, in the website designated in subsection (d) of this section, in the report required under subsection (f) of this section, and in the review required under subsection (g) of this section.

(m)(1) Owners of large buildings may pay an alternative compliance payment if their buildings fail to satisfy one of the compliance pathways established in subsection (i) of this section. The amount of the alternative compliance payment shall be set by the office and shall be assessed per metric ton of carbon dioxide equivalent emissions, by which the building falls short of meeting the requirements of subsection (i) of this section. The alternative compliance payment shall be no less than two hundred twenty-five dollars ($225) per metric ton of carbon dioxide equivalent emissions, and shall be set at an amount ensuring that it is more cost-effective for the owners of the vast majority of large buildings to make the improvements necessary to meet the compliance pathways rather than pay the alternative compliance payment. The office shall revise the amount of the alternative compliance payment at least once every five (5) years. The alternative compliance payment shall be assessed in the final year of the five (5) year compliance period and in every subsequent year that a building fails to satisfy one of the compliance pathways.

(2) Owners of large buildings failing to comply with the energy use reporting and benchmarking requirements of this section or knowingly providing false or incomplete information to the office shall be subject to a fine. Owners of large buildings failing to satisfy one of the compliance pathways established in subsection (i) of this section who do not pay an alternative compliance payment to the office, as described in subsection (m)(1) of this section, shall also be subject to a fine. Fines shall be determined by the office and shall be assessed per day that a building owner is not in compliance with the requirements of this section. Fines shall be no less than five hundred dollars ($500) per day of noncompliance for buildings consisting of not less than twenty-five thousand square feet (25,000 sq. ft.) of gross floor area, three hundred fifty dollars ($350) per day of noncompliance for buildings consisting of not less than twenty thousand square feet (20,000 sq. ft.) and not greater than twenty-four thousand nine hundred ninety-nine square feet (24,999 sq ft.) of gross floor area, and two hundred dollars ($200) per day of noncompliance for buildings consisting of less than twenty thousand square feet (20,000 sq. ft.) of gross floor area. The office may set different levels of fines for different violations of this section.

(3) Alternative compliance payments and fines collected by the office shall be deposited into a separate account established by the office. Any funds collected shall be used first to pay for the costs incurred by the office in administering this section, and any remaining funds shall be used
to further the objectives of this section, including deep energy retrofits of low-income and

moderate-income housing.

(4) The office shall take all reasonable steps to inform the owners of large buildings of their

obligations under this section.

(n) In municipalities that establish their own energy use benchmarking programs or energy

performance standards, the municipality and not the office shall assess any alternative compliance

payments or fines. Alternative compliance payments and fines assessed by municipalities shall be

no less than those described under subsection (m) of this section. Funds collected through

alternative compliance payments and fines assessed by a municipality shall be retained by the

municipality.

SECTION 3. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC PROPERTY AND WORKS -- THE GREEN BUILDINGS ACT

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1 This act would create the building performance standards act to create, by way of
2 benchmarking and reporting, a statewide analysis of energy use and ways to increase energy
3 efficiency.
4 This act would take effect upon passage.