RELATING TO PUBLIC PROPERTY AND WORKS -- THE GREEN BUILDINGS ACT

Introduced by: Senators DiPalma, Euer, Coyne, Kallman, and DiMario

Date Introduced: March 17, 2022

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:


37-24-2. Legislative findings.

It is hereby found and declared as follows:

(1) Energy costs for public buildings and public projects are skyrocketing and will likely continue to increase.

(2) Energy use by public buildings and public projects contributes substantially to the problems of pollution and global warming.

(3) Public buildings, public structures, public real property and public projects can be built, and renovated and located using high-performance methods that save and generate energy; reduce and conserve water consumption; improve indoor air and environmental quality; and improve water quality; reduce transportation demand and emissions; preserve the environment; and make workers and students more productive; and improve the quality of our individual and shared human experience and environmental justice for all citizens of the state.

(4) The green buildings act is a strategic tool to achieve the greenhouse gas emission reduction targets and other objectives of chapter 6.2 of title 42 the (“2021 act on climate) and the work of the executive climate change coordinating council established in § 42-6.2-1.

(5) This law is necessary to more efficiently spend public funds.

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

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

2. "Department" means the department of administration.

3. "Equivalent standard" means a high-performance green building standard, other than LEED, LEED for Neighborhood Development, and SITES, that provides an independent, third-party verification and certification of 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.


5. "Major facility project" means:
   (i) A public facility 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 public facility building renovation project larger than ten thousand (10,000) gross square feet of occupied or conditioned space, and its public real-property site.

6. "Private major facility project" means:
   (i) A building construction project larger than ten thousand (10,000) gross square feet of occupied or conditioned space; or
   (ii) A building renovation project larger than fifteen thousand (15,000) gross square feet of occupied or conditioned space.

7. "Public agency" means every state office, board, commission, committee, bureau, department, or public institution of higher education, or any political subdivision thereof.

8. "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.

(a) All major facility projects of public agencies, political subdivisions of the state, and all private major facility projects shall be designed and constructed to at least the LEED, LEED for Neighborhood Development, and SITES, as provided herein, certified or an equivalent high-performance green building standard. This provision applies to major facility projects or other public improvements of any kind to public buildings, public structures, public real property, and to private major facility projects, that have not entered the design phase prior to January 1, 2010, for LEED, and July 1, 2017, for LEED for Neighborhood Development and SITES through December 31, 2020 for SITES, or for up to four (4) projects, whichever comes first, unless otherwise continued or expanded by the general assembly.

(b) All major facility projects of a public school district, where the project receives any funding from the state, shall be designed and constructed to at least the LEED, LEED for Neighborhood Development, and SITES, as provided herein, certified standard, or the Northeast Collaborative for High-Performance Schools Protocol, Version 1.1 or above. This provision applies to major facility projects or other public improvements of any kind to public buildings, public structures, and public real property that have not entered the design phase prior to January 1, 2010, for LEED, LEED for Neighborhood Development, and SITES through December 31, 2020 for SITES, or for up to four (4) projects, whichever comes first, unless otherwise continued or expanded by the general assembly.

(c) A major facility project does not have to meet the LEED, LEED for Neighborhood Development, and SITES certified standard or an equivalent high-performance green building standard if:

(1) There is no appropriate LEED, LEED for Neighborhood Development, and SITES standard or other high-performance green building standard for that type of building or renovation project or other public improvements of any kind to public buildings, public structures, and public real property. In such case, the department will set lesser green building standards that are equal to the standards specified in § 37-24-4(a) and (b) and are appropriate to the project.

(2) There is no practical way to apply the LEED, LEED for Neighborhood Development, and SITES standard or other high-performance green building standard to a particular building or renovation project or other public improvements of any kind to public buildings, public structures, and public real property. In such case, the department will set lesser green building standards that are equal to the standards specified in § 37-24-4(a) and (b) and are appropriate to the project.

(d) The provisions related to LEED for Neighborhood Development and SITES shall
continue through December 31, 2020, for up to four (4) projects selected by the department, subject to evaluation and continuation by the general assembly thereafter. All private major facility projects where the project receives any economic benefit from the state including, but not limited to, tax credits, incentives, rebates, tax deductions, tax increment financing, low interest financing, exclusions from income for the purpose of calculating taxable income, or preferential tax rates or valuations, including projects on public real property shall be designed and constructed to at least the LEED, LEED for Neighborhood Development, and SITES, as provided in this section, certified or an equivalent high-performance green building standard, and shall comply with the provisions set forth in §§ 37-13-4, 37-13-7, 37-13-14 and 37-13-16.

(e) The provisions and requirements of this chapter are applicable to all public agency and all public facility projects, in accordance with § 37-24-4 (a) and (b). Where those public agency and public facility projects receive any and all economic benefit from the state for major public facility projects, and those public agencies and public projects do not comply with the provisions and requirements of this chapter, those public agencies and public projects shall not receive any and all economic benefits from the state, for the major public facility projects.

37-24-5. Administration and reports.

(a) The department shall promulgate such regulations as are necessary to enforce this section. Those regulations shall include how the department will determine whether a project qualifies for an exception from the LEED, LEED for Neighborhood Development, and SITES certified or equivalent high-performance green building standard, and the lesser green building standards that may be imposed on projects that are granted exceptions. Regulations for LEED for Neighborhood Development and SITES shall be promulgated by September 1, 2022 after December 2020 based on the assessment by the department of up to four (4) eligible state projects selected by the department, and upon continuation of the use of LEED for Neighborhood Development, and SITES by the general assembly.

(b) The department shall monitor and document ongoing operating savings and greenhouse gas emission reductions, that result from major facility projects designed, constructed and certified as meeting the LEED, LEED for Neighborhood Development, and SITES certified standard and annually publish a public report to the general assembly and the executive climate change coordinating council, the advisory board of the executive climate change coordinating council, and the science and technical advisory board of the executive climate change coordinating council, of findings and recommended changes in policy. The report shall also include a description of projects that were granted exceptions from the LEED, LEED for Neighborhood Development, and SITES certified standard, the reasons for exception, and the lesser green building standards imposed. The
report shall include at a minimum, information and data regarding the performance of the projects in the categories of energy saved and generated; the quantity and type of water saved and recycled; the reduction in transportation trips and vehicle miles travelled; the quantity and type of waste eliminated, redirected, recycled, and re-used; the quality of life and the human experience enhanced and improved including environmental justice; and the amount of greenhouse gas emissions reduced toward meeting the greenhouse gas emission reduction targets of chapter 6.2 of title 42 the (“2021 act on climate“). The report shall be publicly available and accessible in print and digital media, and available and accessible on an active digital dashboard that is linked to other national digital dashboards in order to provide comparative visual and narrative information and data of the state’s current status, the state’s ongoing progress, and the state’s comparison of performance to other government and private entities.

(c) In order to understand the capacity and cost, the department shall test the application of LEED for Neighborhood Development and SITES for up to four (4) state projects. The department, with the assistance from the department of environmental management, shall assess the costs and benefits in accordance with subsection (d) of this section and report to the general assembly on or before December 31, 2020. A green buildings advisory committee shall be created composed of nineteen (19) members. The advisory committee shall have eleven (11) public members and eight (8) public agency members. Five (5) of the public members shall be appointed by the governor; three (3) of the public members shall be appointed by the speaker of the house of representatives; and, three (3) of the public members shall be appointed by the president of the senate.

(1) The eleven (11) public members of the advisory board shall be composed of nine (9) representatives from the architecture, engineering, landscape architecture, energy, labor through the Rhode Island AFL-CIO, general construction contracting, building product and building materials industries who are involved in, and have recognized knowledge and accomplishment in their respective professions, of high-performance green building standards, relating to the standards set forth in § 37-24-4; in addition to two (2) public members, one representing an urban municipality from Providence, Cranston, Warwick, Pawtucket, Woonsocket, Newport, or Westerly, and one public member representing the other thirty-two (32) municipalities in the state.

(2) The advisory committee shall have eight (8) public agency members representing personnel from affected public agencies, and cities and towns, that oversee public works projects and workforce development, who shall be appointed by the directors or chief executive officers of the respective public agencies which shall include the department of administration; the department of environmental management; the department of education; the department of transportation; the department of labor and training; the office of the state building code commissioner; the Rhode
(3) The chairperson of the green buildings advisory committee shall be a public member chosen by the green buildings advisory committee.

(4) From the initial eleven (11) public member appointments, five (5) of the public members shall have three (3) year terms and three (3) shall have two (2) year terms. The appointments of the three (3) year terms and the two (2) year terms shall be determined from the respective appointments of the governor, the speaker of the house of representatives, and the president of the senate, proportionally in accordance with the five (5) appointments made by the governor, the three (3) appointments made by the speaker of the house, and the three (3) appointments made by the president of the senate.

(5) From the initial eight (8) public agency members, five (5) of the members representing the department of administration, the department of environmental management, the department of education, the department of transportation, and the state building code commissioner shall have three (3) year terms. From the initial eight (8) public agency members, three (3) of the members representing the department of labor and training, the Rhode Island infrastructure bank, and the League of Cities and Towns shall have two (2) year terms.

(6) Thereafter, all public members and public agency members shall be appointed to three (3) year terms.

(d) The annual LEED reports for 2017 through 2020 required under subsection (b) of this section shall include any assessment of costs and benefits of the LEED for Neighborhood Development and SITES standards. The purpose of the assessment is to determine whether the department shall require LEED for Neighborhood Development and SITES standards for major facility projects beyond December 31, 2020, along with determining any exceptions from the standards that may be required. The green buildings advisory committee shall:

(1) Make recommendations regarding an ongoing evaluation process to help the department and the executive climate change coordinating council implement this chapter;

(2) Identify the needs, actions, and funding required to implement the requirements set forth in this chapter, in achieving high-performance green building projects for our public buildings, public structures, and our public real properties; and

(3) Establish clear, measurable targets for implementing the standards, defined in this chapter, for all public and private major facility projects including timeline, workforce needs, anticipated costs and other measures identified by the green buildings advisory committee and required by chapter 6.2 of title 42 ("2021 act on climate").

(e) The department shall create a green buildings advisory committee composed of
representatives from the design, construction, lumber, and building materials industries involved in public works contracting; personnel from affected public agencies and school boards that oversee public works projects; and others at the department’s discretion to provide advice on implementing this section. The advisory committee shall make recommendations regarding an education and training process and an ongoing evaluation or feedback process to help the department implement this section.

(f) The provisions related to LEED for Neighborhood Development and SITES shall continue through December 31, 2020, for up to four (4) projects selected by the department, subject to evaluation and continuation by the general assembly thereafter. All requests for proposals, requests for information, requests for bids, requests for design/build, requests for construction managers, and any requests relating to obtaining the professional services, pricing, and construction for major facility projects by a public agency for a public facility, and for private major facility projects, shall include the notice of the statutory requirements of chapter 24 of title 37 ("the green buildings act").

(g) The green buildings advisory committee shall have no responsibility for, and shall not develop requests for proposals, requests for information, requests for bids, requests for design/build, requests for construction managers, and any requests relating to obtaining the professional services, pricing, and construction for major facility projects by a public agency for a public facility; and the green buildings advisory committee shall have no responsibility for, and shall not select any vendors for any requests for proposals, requests for information, requests for bids, requests for design/build, requests for construction managers, and any requests relating to obtaining the professional services, pricing, and construction for major facility projects by a public agency for a public facility. Nothing shall prohibit public members of the green buildings advisory committee from responding to, and being involved with, any submittals of requests for proposals, requests for information, requests for bids, requests for design/build, requests for construction managers, and any requests relating to obtaining the professional services, pricing, and construction for major facility projects by a public agency for a public facility.

37-24-6. Protection from liability.

No person, corporation or entity shall be held liable for the failure of a major facility project, public agency or political subdivision of the state to meet the LEED, LEED for Neighborhood Development, and SITES certified standard or other standards established for the project as long as a good faith attempt was made to achieve the standard set for the project.
SECTION 2. This act shall take effect upon passage.

============
LC003909
============
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N   A C T
RELATING TO PUBLIC PROPERTY AND WORKS -- THE GREEN BUILDINGS ACT

***

1 This act would expand the definition of public buildings under the green buildings act and
2 would include those buildings in any subdivision of the state; would include private major facility
3 projects, if those projects received any economic benefit from the state; would mandate public
4 reports for all such projects; and would authorize the establishment of a green buildings advisory
5 committee.

6 This act would take effect upon passage.

==========
LC003909
==========