

Green Buildings and Job Creation Model Legislation

Summary: The Green Buildings Act adopts standards [LEED or other] for the construction or renovation of public buildings and puts forth opportunities to use Federal recovery funds for the purposes of energy efficiency opportunities, both residential and public.

PART 1: ESTABLISHING STANDARDS FOR ENERGY EFFICIENT BUILDINGS

SECTION 1. SHORT TITLE

This Act shall be called the “Green Buildings & Job Creation Act.”

SECTION 2. FINDINGS AND PURPOSE

(A) FINDINGS—

The legislature finds that:

1. Deteriorating public infrastructure and poor indoor environmental quality threaten the health, well being and achievement of occupants of state buildings, including state-owned and funded education facilities.
2. Energy and resource consumption by public buildings contributes substantially to local, regional and global environmental problems that threaten human and economic health, including natural resource depletion, ecosystem health, pollution and global warming.
3. Buildings account for 38% of all CO₂ emissions in the United States, and 72% of U.S. electricity consumption at rates that are only expected to increase.
4. Buildings use 13.6% of all potable water, or 15 trillion gallons per year, and produce hundreds of millions of tons of construction and demolition debris annually.
5. Building and operating green buildings promotes the responsible use of taxpayer dollars, minimizing energy and resource input costs, reducing waste, and generating significant financial savings that can be put to work for the public good.
6. The State should lead by example, promoting local market transformation by using best practices in construction, operation, and maintenance of government-owned or leased buildings.
7. Green buildings are being built on time and on budget, allowing building owners to realize significant cost savings over the life of a building through lower operations and maintenance costs, and reduce the State’s carbon footprint.
8. Green buildings create healthy work spaces through improved air quality and increased natural light, resulting in improved occupant health.
9. Public buildings can be built and renovated using high-performance methods that save energy, money and water, that also provide for a healthier and more productive environment for employees, workers and students, while protecting the public and the environment from hazards attributed to the built environment.

(B) PURPOSE—

This law is enacted to more efficiently and responsibly spend public funds and to protect the health and welfare of [State] residents as well as to train a skilled workforce for jobs in the new economy.

SECTION 3. GREEN BUILDINGS

(A) DEFINITIONS—

In this section:

1. “Department” means the Department [of General Administration].
2. “Green building requirements” means the requirements that a building project be designed, constructed, and has achieved certification at no less than a LEED Silver level, or have achieved a comparable rating under a green building rating system which is at least as rigorous as the comparable LEED Rating System, and only so long as a qualified third party provides a rating under such alternative green building rating system.
3. “Maintained” means procuring the products and services necessary to maintain a green building to the proscribed standard of energy efficiency. Maintenance requires using trained and skilled employees who have been certified to operate and sustain green buildings to the determined standard of energy efficiency.
4. “LEED Silver” means the second tier of the U.S. Green Building Council’s most applicable Leadership in Energy and Environmental Design green building rating system that is open for registration on the effective date of this legislation. [NOTE: There are many levels of LEED standards, with more and more public buildings mandating the LEED Gold level; consider the highest level of standards reasonable, based on any of the various national public standards available (see list at conclusion of the model legislation).]
5. “Major facility project” means:
 - a. A building construction project larger than [5,000] gross square feet of occupied or conditioned space; or
 - b. A building renovation project when the cost is greater than 50 percent of the assessed value and the project is larger than [5,000] gross square feet of occupied or conditioned space.
6. “Public agency” means every state office, board, commission, committee, bureau, department, or public institution of higher education.
7. The “Energy Efficiency and Conservation Block Grant Program” (EECBG) was authorized in Title V, Subtitle E of the Energy Independence and Security (EISA) Act of 2007, and signed into Public Law (PL 110-140) on December 19, 2007. The Program provides federal grants to units of local government, Indian tribes, states, and territories to reduce energy use and fossil fuel emissions, and for improvements in energy efficiency. It was funded for the first time by the American Recovery and Reinvestment Act (ARRA) of 2009.
8. The “State Energy Program” (SEP) provides grants to states and directs funding to state energy offices from technology programs in DOE’s Office of Energy Efficiency and Renewable Energy. States use grants to address their energy priorities and program funding to adopt emerging renewable energy and energy efficiency technologies.
9. “Recovery funding” or “funding” means federal recovery funding provided to the state by the American Recovery & Reinvestment Act of 2009 for energy programs, including, without limitation, energy programs described in Parts 1-4.

(B) GREEN BUILDINGS STANDARDS

1. All major facility projects of public agencies shall be designed, constructed, maintained and certified to at least the green building requirements. This provision applies to major facility projects that have not entered the design phase prior to [DATE].
2. All major facility projects of a public school district, where the project receives any funding from the state capital or operating budget, shall be designed, constructed, maintained and certified to at least the

green building requirements. This provision applies to major facility projects that have not entered the design phase prior to [DATE].

3. All major facility projects by any person, corporation or entity other than a public agency or public school district, where the project receives [XXX] percent of total funding from the state capital or operating budget, shall be designed, constructed, maintained and certified to at least the green building requirements. This provision applies to major facility projects that have not entered the grant application process prior to [DATE].

4. All existing public buildings undergoing energy efficiency retrofits equal to or more than [XXX] share of the total value of the existing building shall be maintained and certified to determined green standards.

5. All buildings covered in [Sections B-1, B-2, and B-3] shall conform to the green building requirements unless an exemption from such standards is granted by the Director of the Department upon a written finding of special circumstances that render construction and certification to the standards impracticable. In such case, the Department will set alternate green building standards that are appropriate to the project if:

a. There is no appropriate green buildings standard for that type of building or renovation project. In such case, the Department will set lesser green building standards that are appropriate to the project.

b. There is no practical way to apply the designated standard to a particular building or renovation project. In such case, the Department will set lesser green building standards that are appropriate to the project.

(C) ADMINISTRATION AND REPORTS

1. 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 green building requirements, and the modified green building standards that may be imposed on projects that are granted exceptions.

2. The Department shall monitor and document ongoing operating savings that result from major facility projects designed, constructed, maintained and certified as well as qualified retrofits to existing buildings as meeting the green building requirements and annually publish a public report of findings and recommended changes in policy. The report shall also include a description of projects that were granted exceptions from the green building requirements, the reasons for exceptions, and the modified green building standards imposed.

3. The Department shall monitor the ongoing development of green building rating systems and standards referenced in the green building requirements and adopt updated versions and standards as appropriate.

4. The Department shall create a green buildings advisory committee composed of representatives from the design, construction, and building operations communities involved in public works contracting, personnel from affected public agencies [health and welfare service delivery, workforce development] 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 public annually regarding an education and training process and an ongoing evaluation or feedback process to help the Department implement this section.

(D) PROTECTION FROM LIABILITY—

No person, corporation or entity shall be held liable for the failure of a major facility project to meet the green building rating systems and standards referenced in the green building requirements established for the project as long as an independent third party review finds that a good faith attempt was made to achieve the standard set for the project.

PART 2: ESTABLISHING FINANCIAL AUTHORITY FOR ENERGY EFFICIENCY PROGRAMS

SECTION 1. FEDERAL RECOVERY FUNDING; GENERAL PRINCIPLES FOR ENERGY PROGRAMS.

Recovery funding shall be allocated and expended according to the following principles and utilizing Federal guidelines:

- (1) project administrators, including the Department, shall attempt to maximize job creation, energy conservation and energy demand reduction that can be achieved by recovery funding;
- (2) consistent with the job creation and energy conservation goals established, projects shall be selected based on relative cost-effectiveness and achieving the maximum ongoing energy savings and environmental benefits per recovery dollar spent and the ability to meet Federal deadlines for the obligation and expenditure of Federal recovery funds so that no federal funding is lost due to failure to meet deadlines;
- (3) recovery funding must be used for projects geographically distributed across the state;
- (4) whenever practical, recovery funds should be coordinated with existing utility conservation programs and other leveraged funds, including private. Preference should be given to loan programs and other programs that recycle funding and effectively coordinate with and leverage existing utility programs and private dollars; and
- (5) whenever practical, recovery funds should be coordinated with the construction and maintenance of green buildings. Preference should be given to projects that effectively coordinate with and leverage green jobs training programs;
- (6) preference should be given to projects that use recovery funds immediately and return some of the funds to the state for funding additional projects (such as Revolving Loan Funds, and will be based on guidelines set forth by the U.S. Department of Energy State Energy Program. The Department, in coordination with the Departments of Education and Administration, shall develop an action plan to spend recovery funds consistent with this section. This plan must include application procedures for funding and the development of a system to track and make publicly available all funds expended, energy savings caused, and jobs created by the investment of recovery funding. The Department may select and hire contractors to assist in the development of the plan and tracking system using expedited procurement procedures.

SECTION 2. LOCAL GOVERNMENT BUILDING RENOVATIONS.

The Department and the Office of Energy Security must coordinate the use of recovery funds with the public building enhanced energy-efficiency program. The commissioner may expedite sole-source contracting for work related to this project. The improvements funded by this project should have a priority for lighting upgrades, energy recommissioning, and other cost-effective energy projects that have already been designed and are ready for immediate implementation. Energy Efficiency Conservation Block Grants may be used to advance public building enhanced energy-efficiency program projects by either reducing energy bills during a savings repayment period or decreasing the number of years for payback of energy improvement investments.

SECTION 3. SCHOOL DISTRICT BUILDINGS.

The Department of Education with the assistance of the Department and the Office of Energy Security shall develop a plan and procedures to select, fund, and implement projects for the use of stimulus funds. The Department of Education may expedite sole-source contracting for work related to the improvement. The improvements shall be based on LEED for Existing Buildings: Operations & Maintenance or equivalent as a guide for high-yielding, and often low-costing retrofit improvements to optimize operational and resource efficiency, and maximize benefits to human and environmental health. Energy Efficiency Conservation Block Grants (EECBG) funding may be used to advance public building enhanced energy efficiency program projects by either reducing energy bills during a savings

repayment period or decreasing the number of years for payback of energy improvement investments.

SECTION 4. STATE GOVERNMENT BUILDINGS.

The Department of Administration, with the assistance of the Department and the Office of Energy Security, shall develop a plan and procedures to select, fund, and implement projects using stimulus funds. The Department of Administration may expedite sole-source contracting for work related to the improvement. The improvements shall look to LEED for Existing Buildings: Operations & Maintenance as a guide for high-yielding, and often low-costing retrofit improvements to optimize operational and resource efficiency, and maximize benefits to human and environmental health. EECGB funding may be used to advance public building enhanced energy-efficiency program projects by either reducing energy bills during a savings repayment period or decreasing the number of years for payback of energy improvement investments.

SECTION 5. RESIDENTIAL WEATHERIZATION

All recovery funds for the state Weatherization Assistance Program must be allocated by [the Director of the Office of Energy Security]. The Department must designate a single staff member responsible for the funds who must approve all fund expenditures along with [the Director of the Office of Energy Security]. Existing providers of weatherization services must be fully utilized before additional providers of weatherization services are added. Programs that include rental units shall be developed, including developing procedures to streamline low-income rental unit participation in programs. Priority shall be given to serving the largest number of new weatherization clients consistent with federal eligibility requirements.

A portion of the stimulus funds received by the Department must be used to fund a window replacement and insulation program for existing housing occupied by low or moderate-income households. The development and implementation of this financing program must be coordinated with the Department. To the extent that funds are available, the Department may also provide some funding to projects that serve commercial and industrial facilities, as well as to extend weatherization programs to middle-income families outside of the Weatherization Assistance Program income eligibility guidelines.

PART 3: GRANTING AUTHORITY TO LOCAL GOVERNMENTS

SECTION 1. REVOLVING LOAN PROGRAM FOR ENERGY IMPROVEMENTS

(a) Purpose. – The General Assembly finds it is in the best interest of the citizens of the State to promote and encourage renewable energy and energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State. In furtherance of this purpose, a city may establish a program to finance the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to residential, commercial, or other real property.

(b) Revolving Loan Fund. – A city may establish a revolving loan fund for the purpose of providing loans to finance the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, or other real property. A city may use Energy Efficiency and Conservation Block Grant Funds and its unrestricted revenue to fund the revolving loan fund. The annual interest rate charged for the use of funds from the revolving fund may not exceed [XXX] percent per annum, excluding other fees for loan application review and origination. The term of any loan originated under this section may not be greater than 15 years.

PART 4: TRAINING AND WORKFORCE DEVELOPMENT.

SECTION 1. TRAINING SERVICES.

1. The Department, in consultation with the Department of Labor, shall enter into contracts with the constituency-based organizations, workforce development organizations, labor organizations, and other training-related organizations, for the purpose of supporting energy efficient initiatives, as described in Section [XXX] with employment and training services. Such contracts shall provide for (A) training of individuals to participate in outreach and marketing activities, perform energy audits and provide qualified energy efficiency services and (B) provision of job placement services to such individuals. To the extent permitted by statute, regulation or Federal grant a preference shall be given for training and placement of women, minorities, low-income individuals and populations with barriers to employment. Trainings services authorized pursuant to this subdivision shall include, as appropriate, but not be limited to:

- a) Incremental occupational training to unemployed workers with good work histories;
- b) Work-readiness and entry-level technical training to individuals with weak work histories;
- c) Apprenticeship qualifying, apprenticeship and labor-management certification training;
- d) Training that is designed to lead to certification in energy auditing and energy performance contracting;
- e) Skills upgrading for incumbent workers, including workers performing weatherization activities under division of [Housing and Community Renewal Programs];
- f) Work support, where appropriate and to the extent that funding is available, to individuals who obtain employment created by this title, to assist such individuals to retain employment and continue to upgrade their skills.

2. For quality assurance purposes, organizations providing training services pursuant to this section shall possess certifications and accreditations deemed appropriate by the Department, in consultation with the Department of Labor.

3. The Department, in cooperation with the Department of Labor, shall facilitate coordination between constituency-based organizations, work-force development organizations, labor organizations and auditing and energy performance services contractors to provide job opportunities for individuals participating in training programs and receiving placement services pursuant to this section.

4. The Department, in cooperation with the Department of Labor, shall:

- (A) Encourage local workforce investment boards created pursuant to the Federal Workforce Investment Act of 1998 (Public Laws 105-220) to make available training and job placement services authorized pursuant to this subdivision within each local workforce investment area;
- (B) Access training services available through the Department of Labor; and
- (C) Apply for available Federal funding for appropriate training services pursuant to the provisions of the American Recovery and Investment Act of 2009 (Public Laws 111-5) and any other applicable Federal law.

5. The Department of Labor shall coordinate with the Department implementing this section.

PART 5: OVERSIGHT AND ACCOUNTABILITY

SECTION 1. ADVISORY COUNCIL

1. The Department shall establish a Green Jobs Advisory Council to advise the Department on the creation and implementation of the program. The council shall consist of:
 - (a.) The head of the Department; the Commissioner of Housing and Community Renewal; the Commissioner of Labor; the Commissioner of Temporary and Disability Assistance; the Chair of the Consumer Protection Board; the Chair of Economic Development; the Commissioner of Environmental Conservation; or the designees of such persons; and
 - (b.) Representatives of constituency-based community groups; consumer advocates on utility and housing issues; community-based workforce development groups; unions, including building trades and property services; home performance contractors; large-scale construction contractors; and investment market experts.
2. The head of the Department shall serve as the Chair of the Council.

SECTION 2. REPORTING/ACCOUNTABILITY STRUCTURE

1. Annual reporting. No later than [DATE] and each year thereafter, the Chair of the Council shall present the legislature with a report which shall include:
 - a) Status of the Department's activities and outcomes
 - b) Recommendation for program improvements
 - c) Metrics for the revolving loan program
 - d) The number of individuals receiving training services, including type of services
 - e) Identity of organizations providing training services, including the cost of such services and the amount of funds awarded to each organization
 - f) The number of individuals placed through job placement services according to employment status and wage levels
 - g) The number of individuals placed after having received training, reported by employment status and wage levels
 - h) The overall effectiveness, progress and outcomes by the Department, including key findings by the Department, a calculation of the energy saving achieved and any recommendations for program improvements and expansion of the program.
2. Third Party Review. If requested by one third of the members of the Council, a third party entity will be hired to submit an independent audit based on the metrics established in Section 2, a-g. This entity should be chosen based on a competitive bidding process, with the award determined by majority support of the Council or an established subcommittee. Such independent audit will be made available to the public through the specified government's online portal.