

HOUSE BILL REPORT

E2SHB 1899

As Amended by the Senate

Title: An act relating to facilitating reconstruction of communities damaged or destroyed by wildfires.

Brief Description: Facilitating reconstruction of communities damaged or destroyed by wildfires.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Volz, Schmidt, Chapman, Graham, Rule, Leavitt, Waters, Low, Christian, Couture, McClintock, Barnard, Jacobsen, Timmons, Schmick, Dent, Cheney, Sandlin and Griffey).

Brief History:

Committee Activity:

Local Government: 1/23/24, 1/26/24 [DPS];
Appropriations: 2/2/24, 2/5/24 [DP2S(w/o sub LG)].

Floor Activity:

Passed House: 2/13/24, 96-1.
Senate Amended.
Passed Senate: 3/1/24, 45-1.

Brief Summary of Engrossed Second Substitute Bill

- Establishes a disaster relief payment program, administered by the Department of Commerce, to make disaster relief payments to property owners and local governments that had certain buildings damaged or destroyed by wildfire after January 1, 2023, for the purpose of assisting the reconstructed or repaired building to meet increased energy efficiency standards, to provide or increase electric vehicle charging capacity, or for the installation and use of solar panels on a building that did not previously utilize solar panels.
- Requires that disaster relief payment first be awarded for buildings owned or rented by low- to moderate-income households, and then for

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those buildings which will yield the greatest environmental benefits.

- Exempts the reconstruction or repair of residential buildings lost or damaged in wildfires between July 1, 2023, and September 1, 2023, from provisions of the state building code and state energy code that would prohibit, restrict, or require energy offsets for the use of a propane tank as a secondary heating source.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Berg, Griffey and Riccelli.

Minority Report: Without recommendation. Signed by 1 member: Representative Jacobsen, Assistant Ranking Minority Member.

Staff: Kellen Wright (786-7134).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Dye, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

Staff: Jackie Kauble (786-7125).

Background:

The State Building Code Council (Council) is responsible for the adoption of the State Building Code (Code). The Code establishes the minimum requirements and standards for buildings and facilities constructed in the state.

The Council also adopts the State Energy Code (Energy Code). The Energy Code must be designed to require the construction of increasingly energy efficiency homes and buildings.

In 2023 Washington was subjected to a number of wildfires. On August 19, 2023, the

Governor declared a state of emergency throughout the state due to the wildfires. The Governor has not issued a proclamation terminating the state of emergency.

Summary of Engrossed Second Substitute Bill:

The Department of Commerce (Department) must establish and administer a disaster relief payment program to provide assistance to qualifying property owners and local governments that had buildings damaged or destroyed by wildfires. In order to be eligible for a disaster relief payment, a property owner who had a building damaged or destroyed during a wildfire must meet the following criteria:

- The building must have been damaged or destroyed after January 1, 2023.
- The area in which the building was damaged or destroyed must have been under a state of emergency declared by the Governor or a local government due to wildfires.
- The building must have been a residential building, multifamily building, commercial building, or a building owned and used by a local government.
- The same type of building that was damaged or destroyed is being repaired or reconstructed.
- The new or repaired building will comply with all Code and Energy Code requirements in effect for the construction or repair.

A disaster relief payment from the Department may only be used to comply with any increase in Energy Code standards since the time that the building was originally constructed, to provide or increase electric vehicle charging capacity, or to install solar panels on a building that did not, prior to being damaged or destroyed, use solar panels.

The Department must develop a system for how applications are to be submitted and evaluated in consultation with the Military Department and tribal and local government emergency management authorities. The system must ensure that disaster relief payments are only used for the allowed purposes. The Department must develop criteria for awarding disaster relief payment that is consistent with that used by the individual emergency assistance program administered by the Adjutant General and, as appropriate, with other disaster response and recovery programs.

When awarding disaster relief payment, the Department must prioritize buildings owned or rented by households with an adjusted income that is at or below 120 percent of the median household income in the county. After that, disaster relief payment must be awarded based on the environmental benefits that will be realized from the increased energy efficiency, electric vehicle charging capacity, or solar panel use by the building for which the disaster relief payment is awarded.

Until June 30, 2026, to the extent that the Code or Energy Code would prohibit, restrict, or require additional energy efficiencies or offsets on the use of a propane tank as a secondary heating source, the codes do not apply to the permitting, repair, or reconstruction of a residential building that was damaged or destroyed by wildfires between July 1, 2023, and

September 1, 2023, in a location that was subject to an emergency declaration from the Governor or a local government. Counties and cities cannot prohibit the construction or use of a propane tank for such a residential building. The codes continue to apply to these buildings in all other respects.

EFFECT OF SENATE AMENDMENT(S):

The version passed by the Senate:

- limits those eligible for disaster relief payments under the program established by the Department of Commerce to qualifying property owners or local governments that had a building damaged or destroyed between August 1 and October 1, 2023, in a county east of the crest of the Cascade Mountains with a population of at least 500,000; and
- removes provisions related to exempting rebuilt residential buildings from the requirements of the State Building Code and State Energy Code for residential structures to the extent that the codes would require additional energy efficiencies or offsets on, restrict, or prohibit the construction or use of a propane tank as a secondary heating source for the rebuilt building.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Local Government):

(In support) Wildfires devastated places in Spokane County last August. Many people had to evacuate, and some had their homes destroyed and lost everything. The people who lost homes are now caught between the old State Building Code Council rules that were in effect at the time of the fire and the new rules that will go into effect this year. Half of the homes that were destroyed will not be rebuilt quickly enough to use the current code, and having to adopt to a new code adds financial and emotional strain on victims. This would not allow rebuilding to an old code that was in effect when the building was originally built, but to the current code. This would increase energy efficiency while still providing relief for victims. We should prioritize the needs of victims. Many are currently living in tents or recreational vehicles, and we need to help reduce the burden on them. This is more than just a financial issue, but a moral imperative to support our neighbors. The victims have not received the assistance that they were told would be available, and need the help that is in this bill. This bill would allow them to rebuild quickly and efficiently by allowing them to use the current code rather than the new code. This bill is crucial for expediting the rebuilding of communities. Many are worried about rebuilding because they may not be able to use the same heating source that they had previously used without issues for

decades. Some live off the grid and need generators to heat their homes. This can be a safety issue, because the loss of power could mean that these isolated people do not have heat. The grid may not be able to handle the complete shift to electricity. Some cannot hook up to gas, and prices may continue to increase in the future. This bill would allow the victims of the fire to rebuild in the same manner, and with the same heating source that they lost in the fires. Issues raised by the insurance industry can be addressed with amendments. The new code will add tens of thousands of dollars to the costs of rebuilding. The people that lost their homes unexpectedly are not in the same position as someone who has decided to build a new home and budgeted for it, and the level of insurance they had may not be sufficient to rebuild to the new standards. People will struggle to maintain their standard of living. When there is a natural disaster, there should be a pause on increasing code standards for the victims so that they can rebuild back to the same standards as they had at the time that the home was destroyed. The current Wildland-Urban Interface (WUI) Code is not currently the law and it is in flux because it is difficult to implement. The bill should reference the state residential code rather than the state building code.

(Opposed) The intent of the bill is good, but it could leave people underinsured. Not building up to the WUI code standard could make it more difficult for wildfire victims to find insurance coverage in the future. Current insurance does cover rebuilding up to code standards. For those that were uninsured, it can be difficult to rebuild, and those people need financial assistance. Rebuilding to a lower standard, however, will only lead to more financial difficulties in the future. This bill raises concerns about the next wildfire, as suspending codes that would make homes and communities better protected from wildfires is counterproductive. This would send insurers the wrong message about the state's commitment to mitigating wildfires, and would make it more difficult to get insurance coverage.

(Other) The purpose of the new energy code is to make buildings more efficient and to reduce carbon dioxide (CO₂) emissions. The Climate Commitment Act puts a hard cap on CO₂ emissions, so there is only so much CO₂ that can be sold in the state. Therefore, even if this bill passed, it would not change the overall CO₂ reduction in the state. The State Building Code Council found that meeting the new codes would be more expensive than meeting the old codes, and would increase costs for those that lost their homes.

Staff Summary of Public Testimony (Appropriations):

(In support) These grants will support frontline communities that have seen the worst impacts of climate change in our region so that they can rebuild and better withstand future wildfires. Oregon has implemented a similar program. Wildfires are not going away, and providing a funding resource to support communities will benefit us all as we rebuild stronger and more resilient with the most up-to-date technology.

(Opposed) None.

(Other) The bill should be amended back to its original form before it was amended in the policy committee. The victims of the recent fires lost everything and just want to build back what they lost. The new building codes continue to be an area of uncertainty. While there is a desire to improve the environmental impact of new construction, many of these homes were built many years ago and will be rebuilt more environmentally friendly than before they burned down, due to the technological advances made to building materials. A pause in the building code to January 2023 will allow those who lost their homes to build back quickly without having to fill out extra forms. Competitive grants lead to higher administrative costs for localities and there is concern that the current approach is inequitable. Tying this funding to the Climate Commitment Act funds increases uncertainty.

The Department of Commerce and the Emergency Management Division of the Military Department have been working in partnership in response to natural disasters for years, utilizing emergency funds and reallocating other infrastructure dollars to help out communities that have been impacted by fires, floods, and other natural disasters. It is important to make sure there is proper alignment between the various disaster response and recovery programs as well as fund sources, such as the state-administered individual assistance program that currently exists within the statute or the public infrastructure assistance program that the Governor's Office requested the Military Department to establish. There will be a delay in getting funds out to victims because there is no emergency clause, and the Department does not expect to conclude rulemaking until the second quarter of 2025. Funds may get out quicker by removing the rulemaking process, and by collaborating with other emergency funds on aligning efforts.

Persons Testifying (Local Government): (In support) Representative Mike Volz, prime sponsor; Josh Kerns, Spokane County; Al French, Spokane County Commissioner; Al Merkel, City of Spokane Valley; Terri Cooper, City of Medical Lake; Lukas Garcia, Greater Spokane Valley Chamber of Commerce; Lisa Johnson; Meegan Ware; and Jan Himebaugh, Building Industry Association of Washington.

(Opposed) David Forte, Office of the Insurance Commissioner; and Kenton Brine, Northwest Insurance Council.

(Other) Todd Myers, Washington Policy Center.

Persons Testifying (Appropriations): (In support) Katy Sheehan.

(Other) Josh Kerns, Spokane County; Kaye Peterson; Dave Pringle, Department of Commerce; James Baumgart, Washington State Military Department; and Lukas Garcia, Greater Spokane Valley Chamber of Commerce.

Persons Signed In To Testify But Not Testifying (Local Government): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.