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**HOUSE BILL 1193**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representative Dye

1 AN ACT Relating to affirming that the legislature has not  
2 provided authority for the state building code council to use  
3 greenhouse gas emissions as a consideration in residential building  
4 codes or energy codes; amending RCW 19.27.020, 19.27A.020, and  
5 19.27A.160; reenacting and amending RCW 70A.45.020; adding a new  
6 section to chapter 19.27A RCW; creating a new section; and declaring  
7 an emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature intends to reserve its  
10 authority to answer major policy questions regarding the future of  
11 natural gas infrastructure. Natural gas is a critical component of  
12 our electricity grid, the production sector of our economy, and a  
13 fuel relied upon by over 1,000,000 households in Washington.  
14 Furthermore, Washington state is in a housing affordability crisis,  
15 and the legislature needs to consider solutions to that crisis  
16 holistically, which may mean evaluating the trade-offs between  
17 affordability, employment in the building trades, environmental  
18 outcomes, and energy reliability. Therefore, the legislature intends  
19 to clarify that nothing in current state law provides authority for  
20 the state building code council to restrict natural gas or use  
21 greenhouse gas emissions as a factor in rules or actions, and that

1 the state building code council is prohibited from taking such  
2 actions or adopting such rules until specific laws on those questions  
3 have been passed and signed into law. It is the intent of the  
4 legislature that this prohibition applies specifically to the  
5 adoption of the 2021 building code.

6 **Sec. 2.** RCW 19.27.020 and 1985 c 360 s 6 are each amended to  
7 read as follows:

8 (1) The purpose of this chapter is to promote the health, safety,  
9 and welfare of the occupants or users of buildings and structures and  
10 the general public by the provision of building codes throughout the  
11 state.

12 (2) Accordingly, this chapter is designed to effectuate the  
13 following purposes, objectives, and standards:

14 ~~((1))~~ (a) To require minimum performance standards and  
15 requirements for construction and construction materials, consistent  
16 with accepted standards of engineering, fire, and life safety.

17 ~~((2))~~ (b) To require standards and requirements in terms of  
18 performance and nationally accepted standards.

19 ~~((3))~~ (c) To permit the use of modern technical methods,  
20 devices, and improvements.

21 ~~((4))~~ (d) To eliminate restrictive, obsolete, conflicting,  
22 duplicating, and unnecessary regulations and requirements which could  
23 unnecessarily increase construction costs or ~~((retard))~~ impede the  
24 use of new materials and methods of installation or provide  
25 unwarranted preferential treatment to types or classes of materials  
26 or products or methods of construction.

27 ~~((5))~~ (e) To provide for standards and specifications for  
28 making buildings and facilities accessible to and usable by  
29 ~~((physically disabled persons))~~ individuals with physical  
30 disabilities.

31 ~~((6))~~ (f) To consolidate within each authorized enforcement  
32 jurisdiction ~~((7))~~ the administration and enforcement of building  
33 codes.

34 (3) Nothing in this chapter provides authority for the state  
35 building code council to consider greenhouse gas emissions as a  
36 factor in any decisions about the state building code or the state  
37 energy code in chapter 19.27A RCW including, but not limited to, any  
38 decisions related to standards, requirements, specifications, and  
39 rules.

1       (4) The state building code council must not restrict the use of  
2 natural gas or natural gas appliances in residential construction  
3 unless a statute granting explicit authority to the council to  
4 authorize such a restriction is enacted.

5       **Sec. 3.** RCW 19.27A.020 and 2018 c 207 s 7 are each amended to  
6 read as follows:

7       (1) The state building code council in the department of  
8 enterprise services shall adopt rules to be known as the Washington  
9 state energy code as part of the state building code.

10       (2) The council shall follow the legislature's standards set  
11 forth in this section to adopt rules to be known as the Washington  
12 state energy code. The Washington state energy code shall be designed  
13 to:

14       (a) Construct increasingly energy efficient homes and buildings  
15 (~~that help achieve the broader goal of building zero fossil-fuel~~  
16 ~~greenhouse gas emission homes and buildings~~) by the year 2031;

17       (b) Require new buildings to meet a certain level of energy  
18 efficiency, but allow flexibility in building design, construction,  
19 and heating equipment efficiencies within that framework; and

20       (c) Allow space heating equipment efficiency to offset or  
21 substitute for building envelope thermal performance.

22       (3) The Washington state energy code shall take into account  
23 regional climatic conditions. One climate zone includes: Adams,  
24 Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield,  
25 Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille,  
26 Skamania, Spokane, Stevens, Walla Walla, Whitman, and Yakima  
27 counties. The other climate zone includes all other counties not  
28 listed in this subsection (3). The assignment of a county to a  
29 climate zone may not be changed by adoption of a model code or rule.  
30 Nothing in this section prohibits the council from adopting the same  
31 rules or standards for each climate zone.

32       (4) The Washington state energy code for residential buildings  
33 shall be the 2006 edition of the Washington state energy code, or as  
34 amended by rule by the council.

35       (5) The minimum state energy code for new nonresidential  
36 buildings shall be the Washington state energy code, 2006 edition, or  
37 as amended by the council by rule.

38       (6) (a) Except as provided in (b) of this subsection, the  
39 Washington state energy code for residential structures shall preempt

1 the residential energy code of each city, town, and county in the  
2 state of Washington.

3 (b) The state energy code for residential structures does not  
4 preempt a city, town, or county's energy code for residential  
5 structures which exceeds the requirements of the state energy code  
6 and which was adopted by the city, town, or county prior to March 1,  
7 1990. Such cities, towns, or counties may not subsequently amend  
8 their energy code for residential structures to exceed the  
9 requirements adopted prior to March 1, 1990.

10 (7) The state building code council shall consult with the  
11 department of enterprise services as provided in RCW 34.05.310 prior  
12 to publication of proposed rules. The director of the department of  
13 enterprise services shall recommend to the state building code  
14 council any changes necessary to conform the proposed rules to the  
15 requirements of this section.

16 (8) The state building code council shall evaluate and consider  
17 adoption of the international energy conservation code in Washington  
18 state in place of the existing state energy code.

19 (9) The definitions in RCW 19.27A.140 apply throughout this  
20 section.

21 **Sec. 4.** RCW 19.27A.160 and 2009 c 423 s 5 are each amended to  
22 read as follows:

23 (1) Except as provided in subsection (2) of this section,  
24 residential and nonresidential construction permitted under the 2031  
25 state energy code must achieve a (~~seventy~~) 70 percent reduction in  
26 annual net energy consumption, using the adopted 2006 Washington  
27 state energy code as a baseline. This requirement does not authorize  
28 the council to consider greenhouse gas emissions in any decisions in  
29 accordance with RCW 19.27.020(2).

30 (2) The council shall adopt state energy codes from 2013 through  
31 2031 that incrementally move towards achieving the (~~seventy~~) 70  
32 percent reduction in annual net energy consumption as specified in  
33 subsection (1) of this section. The council shall report its progress  
34 by December 31, 2012, and every three years thereafter. If the  
35 council determines that economic, technological, or process factors  
36 would significantly impede adoption of or compliance with this  
37 subsection, the council may defer the implementation of the proposed  
38 energy code update and shall report its findings to the legislature

1 by December 31st of the year prior to the year in which those codes  
2 would otherwise be enacted.

3 **Sec. 5.** RCW 70A.45.020 and 2020 c 79 s 2, 2020 c 32 s 4, and  
4 2020 c 20 s 1398 are each reenacted and amended to read as follows:

5 (1)(a) The state shall limit anthropogenic emissions of  
6 greenhouse gases to achieve the following emission reductions for  
7 Washington state:

8 (i) By 2020, reduce overall emissions of greenhouse gases in the  
9 state to 1990 levels, or (~~ninety million five hundred thousand~~)  
10 90,500,000 metric tons;

11 (ii) By 2030, reduce overall emissions of greenhouse gases in the  
12 state to (~~fifty million~~) 50,000,000 metric tons, or (~~forty-five~~)  
13 45 percent below 1990 levels;

14 (iii) By 2040, reduce overall emissions of greenhouse gases in  
15 the state to (~~twenty-seven million~~) 27,000,000 metric tons, or  
16 (~~seventy~~) 70 percent below 1990 levels;

17 (iv) By 2050, reduce overall emissions of greenhouse gases in the  
18 state to (~~five million~~) 5,000,000 metric tons, or (~~ninety-five~~)  
19 95 percent below 1990 levels.

20 (b) By December 1, 2008, the department shall submit a greenhouse  
21 gas reduction plan for review and approval to the legislature,  
22 describing those actions necessary to achieve the emission reductions  
23 in (a) of this subsection by using existing statutory authority and  
24 any additional authority granted by the legislature. Actions taken  
25 using existing statutory authority may proceed prior to approval of  
26 the greenhouse gas reduction plan.

27 (c) In addition to the emissions limits specified in (a) of this  
28 subsection, the state shall also achieve net zero greenhouse gas  
29 emissions by 2050. Except where explicitly stated otherwise, nothing  
30 in chapter 14, Laws of 2008 limits any state agency authorities as  
31 they existed prior to June 12, 2008.

32 (d) Consistent with this directive, the department shall take the  
33 following actions:

34 (i) Develop and implement a system for monitoring and reporting  
35 emissions of greenhouse gases as required under RCW 70A.15.2200; and

36 (ii) Track progress toward meeting the emission reductions  
37 established in this subsection, including the results from policies  
38 currently in effect that have been previously adopted by the state  
39 and policies adopted in the future, and report on that progress.

1 Progress reporting should include statewide emissions as well as  
2 emissions from key sectors of the economy including, but not limited  
3 to, electricity, transportation, buildings, manufacturing, and  
4 agriculture.

5 (e) Nothing in this section creates any new or additional  
6 regulatory authority for any state agency as they existed prior to  
7 January 1, 2019. Nothing in this section creates authority for the  
8 state building code council to rely upon or consider the limits  
9 established in (a) of this subsection for purposes of actions taken  
10 under chapter 19.27 RCW or 19.27A RCW.

11 (2) By December 31st of each even-numbered year beginning in  
12 2010, the department and the department of commerce shall report to  
13 the governor and the appropriate committees of the senate and house  
14 of representatives the total emissions of greenhouse gases for the  
15 preceding two years, and totals in each major source sector,  
16 including emissions associated with leaked gas identified by the  
17 utilities and transportation commission under RCW 81.88.160. The  
18 report must include greenhouse gas emissions from wildfires,  
19 developed in consultation with the department of natural resources.  
20 The department shall ensure the reporting rules adopted under RCW  
21 70A.15.2200 allow it to develop a comprehensive inventory of  
22 emissions of greenhouse gases from all significant sectors of the  
23 Washington economy.

24 (3) Except for purposes of reporting, emissions of carbon dioxide  
25 from industrial combustion of biomass in the form of fuel wood, wood  
26 waste, wood by-products, and wood residuals shall not be considered a  
27 greenhouse gas as long as the region's silvicultural sequestration  
28 capacity is maintained or increased.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.27A  
30 RCW to read as follows:

31 The state building code council may not adopt any rules to  
32 implement the 2021 Washington state codes that limit the use of  
33 natural gas in buildings or that favor the use of electric appliances  
34 over natural gas appliances in buildings. The state building code  
35 council may only proceed with adopting rules that are consistent with  
36 RCW 19.27.020 (3) and (4).

37 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
38 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect immediately.

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