

2022 -- S 2700

LC003909

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: 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:

1 SECTION 1. Sections 37-24-2, 37-24-3, 37-24-4, 37-24-5 and 37-24-6 of the General
2 Laws in Chapter 37-24 entitled "The Green Buildings Act" are hereby amended to read as follows:

3 **37-24-2. Legislative findings.**

4 It is hereby found and declared as follows:

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

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

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

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

18 ~~(4)~~(5) This law is necessary to more efficiently spend public funds.

19 **37-24-3. Definitions.**

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

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

6 (2) "Department" means the department of administration.

7 (3) "Equivalent standard" means a high-performance green building standard, other than
8 LEED, LEED for Neighborhood Development, and SITES, that provides [an independent, third-](#)
9 [party verification and certification of](#) a rating system or measurement tool, that, when used, leads
10 to outcomes, ~~similar or~~ equivalent to, LEED, LEED for Neighborhood Development, and SITES
11 outcomes, in terms of green building, green infrastructure, and green site performance; current
12 accepted equivalent standards include green globes, Northeast collaborative high-performance
13 schools protocol; or other equivalent high-performance green building, green infrastructure, and
14 green site standards accepted by the department.

15 (4) "LEED" also, "LEED for Neighborhood Development, and SITES certified standard"
16 means the current version of the ~~United States~~ [U.S.](#) Green Building Council Leadership in Energy
17 and Environmental Design ([LEED](#)) green building rating standard referred to as LEED, LEED for
18 Neighborhood Development, and SITES certified. SITES means the U.S. Green Building Council's
19 [SITES -- The Sustainable Sites SITES](#) Initiative.

20 (5) "Major facility project" means:

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

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

25 [\(6\) "Private major facility project" means:](#)

26 [\(i\) A building construction project larger than ten thousand \(10,000\) gross square feet of](#)
27 [occupied or conditioned space; or](#)

28 [\(ii\) A building renovation project larger than fifteen thousand \(15,000\) gross square feet of](#)
29 [occupied or conditioned space.](#)

30 ~~(6)~~[\(7\)](#) "Public agency" means every state office, board, commission, committee, bureau,
31 department, or public institution of higher education, [or any political subdivision thereof](#).

32 ~~(7)~~[\(8\)](#) "Public facility" means any public institution, public facility, public equipment, or
33 any physical asset owned, including its public real-property site, leased or controlled in whole or
34 in part by this state or any agency or political subdivision thereof.

1 **37-24-4. Green building standards.**

2 (a) All major facility projects of public agencies, political subdivisions of the state, and all
3 private major facility projects shall be designed and constructed to at least the LEED, LEED for
4 Neighborhood Development, and SITES, as provided herein, certified or an equivalent high-
5 performance green building standard. This provision applies to major facility projects or other
6 public improvements of any kind to any public buildings, public structures, public real property,
7 and to private major facility projects, that have not entered the design phase prior to January 1,
8 ~~2010~~ 2022, for LEED, ~~and July 1, 2017, for~~ LEED for Neighborhood Development and ~~SITES~~
9 ~~through December 31, 2020 for SITES, or for up to four (4) projects, whichever comes first, unless~~
10 ~~otherwise continued or expanded by the general assembly.~~

11 (b) All major facility projects of a public school district, where the project receives any
12 funding from the state, shall be designed and constructed to at least the LEED, LEED for
13 Neighborhood Development, and SITES, as provided herein, certified standard, or the Northeast
14 Collaborative for High-Performance Schools Protocol, Version 1.1 or above. This provision applies
15 to major facility projects or other public improvements of any kind to any public buildings, public
16 structures, and ~~to any~~ public real property that have not entered the design phase ~~prior to January~~
17 ~~1, 2010, for LEED,~~ LEED for Neighborhood Development, ~~and SITES through December 31, 2020~~
18 for SITES ~~or for up to four (4) projects, whichever comes first, unless otherwise continued or~~
19 ~~expanded by the general assembly.~~

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

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

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

34 (d) ~~The provisions related to LEED for Neighborhood Development and SITES shall~~

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

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

16 **37-24-5. Administration and reports.**

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

26 (b) The department shall monitor and document ongoing operating savings and greenhouse
27 gas emission reductions, that result from major facility projects designed, constructed and certified
28 as meeting the LEED, LEED for Neighborhood Development, and SITES certified standard and
29 annually publish a public report to the general assembly and the executive climate change
30 coordinating council, the advisory board of the executive climate change coordinating council, and
31 the science and technical advisory board of the executive climate change coordinating council. of
32 findings and recommended changes in policy. The report shall also include a description of projects
33 that were granted exceptions from the LEED, LEED for Neighborhood Development, and SITES
34 certified standard, the reasons for exception, and the ~~lesser~~ green building standards imposed. The

1 report shall include at a minimum, information and data regarding the performance of the projects
2 in the categories of energy saved and generated; the quantity and type of water saved and recycled;
3 the reduction in transportation trips and vehicle miles travelled; the quantity and type of waste
4 eliminated, redirected, recycled, and re-used; the quality of life and the human experience enhanced
5 and improved including environmental justice; and the amount of greenhouse gas emissions
6 reduced toward meeting the greenhouse gas emission reduction targets of chapter 6.2 of title 42 the
7 ("2021 act on climate"). The report shall be publicly available and accessible in print and digital
8 media, and available and accessible on an active digital dashboard that is linked to other national
9 digital dashboards in order to provide comparative visual and narrative information and data of the
10 state's current status, the state's ongoing progress, and the state's comparison of performance to
11 other government and private entities.

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

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

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

1 Island infrastructure bank, and the Rhode Island league of cities and towns.

2 (3) The chairperson of the green buildings advisory committee shall be a public member
3 chosen by the green buildings advisory committee.

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

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

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

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

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

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

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

34 ~~(e) The department shall create a green buildings advisory committee composed of~~

1 ~~representatives from the design, construction, lumber, and building materials industries involved~~
2 ~~in public works contracting; personnel from affected public agencies and school boards that oversee~~
3 ~~public works projects; and others at the department's discretion to provide advice on implementing~~
4 ~~this section. The advisory committee shall make recommendations regarding an education and~~
5 ~~training process and an ongoing evaluation or feedback process to help the department implement~~
6 ~~this section.~~

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

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

28 **37-24-6. Protection from liability.**

29 No person, corporation or entity shall be held liable for the failure of a major facility
30 project, private major facility project, public facility project, public agency or political subdivision
31 of the state to meet the LEED, LEED for Neighborhood Development, and SITES certified standard
32 or other standards established for the project as long as a good faith attempt was made to achieve
33 the standard set for the project.

1 SECTION 2. This act shall take effect upon passage.

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LC003909
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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.

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