

2022 -- S 2700 SUBSTITUTE A

LC003909/SUB A/2

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

28 (7) "Public facility" means any public institution, public facility, public equipment, or any
29 physical asset owned, including its public real-property site, leased or controlled in whole or in part
30 by this state, ~~or any agency~~ a public agency, a municipality or a political subdivision, ~~thereof~~ which
31 is for public or government use.

32 **37-24-4. Green building standards.**

33 (a) All public major facility projects of the state, public agencies, municipalities and
34 political subdivisions shall be designed and constructed to at least the LEED, LEED for

1 Neighborhood Development, and SITES, as provided herein, certified or an equivalent high-
2 performance green building standard. This provision applies to [public](#) major facility projects or
3 other public improvements of any kind to any public ~~real property~~ [facility](#) that have not entered the
4 design phase prior to January 1, ~~2010~~ [2023](#), for LEED, ~~and July 1, 2017, for~~ LEED for
5 Neighborhood Development and [for](#) SITES ~~through December 31, 2020, or for up to four (4)~~
6 ~~projects, whichever comes first, unless otherwise continued or expanded by the general assembly.~~

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

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

19 (1) There is no appropriate LEED, LEED for Neighborhood Development, and SITES
20 standard or other high-performance green building standard for that type of building or renovation
21 project or other public improvements of any kind to any public ~~real property~~ [facility](#). In such case,
22 the department will set ~~lesser~~ green building standards that are appropriate to the project.

23 (2) There is no practical way to apply the LEED, LEED for Neighborhood Development,
24 and SITES standard or other high-performance green building standard to a particular building or
25 renovation project or other public improvements of any kind to any public ~~real property~~ [facility](#). In
26 such case, the department will set ~~lesser~~ green building standards that are appropriate to the project.

27 ~~(d) The provisions related to LEED for Neighborhood Development and SITES shall~~
28 ~~continue through December 31, 2020, for up to four (4) projects selected by the department, subject~~
29 ~~to evaluation and continuation by the general assembly thereafter.~~

30 **37-24-5. Administration and reports.**

31 (a) The department shall promulgate such regulations as are necessary to enforce this
32 section [by December 31, 2022](#). Those regulations shall include how the department will determine
33 whether a project qualifies for an exception from the LEED, LEED for Neighborhood
34 Development, and SITES certified or equivalent high-performance green building standard, and

1 the ~~lesser~~ green building standards that may be imposed on projects that are granted exceptions.
2 ~~Regulations for LEED for Neighborhood Development and SITES shall be promulgated after~~
3 ~~December 2020 based on the assessment by the department of up to four (4) eligible state projects~~
4 ~~selected by the department, and upon continuation of the use of LEED for Neighborhood~~
5 ~~Development, and SITES by the general assembly.~~

6 (b) The department shall monitor and document ongoing operating savings that result from
7 major facility projects designed, constructed and certified as meeting the LEED, LEED for
8 Neighborhood Development, and SITES certified standard annually publish a public report of
9 findings and recommended changes in policy. The report shall also include a description of projects
10 that were granted exceptions from the LEED, LEED for Neighborhood Development, and SITES
11 certified standard, the reasons for exception, and the lesser green building standards imposed.

12 ~~(e) 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.~~

17 (c) A green buildings advisory committee shall be created composed of nineteen (19)
18 members. The advisory committee shall have eleven (11) public members and eight (8) public
19 agency members. Five (5) of the public members shall be appointed by the governor; three (3) of
20 the public members shall be appointed by the president of the senate; and, three (3) of the public
21 members shall be appointed by the speaker of the house of representatives.

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

31 (2) The advisory committee shall have eight (8) public agency members representing
32 personnel from affected public agencies, and cities and towns, that oversee public works projects
33 and workforce development, who shall be appointed by the directors or chief executive officers of
34 the respective public agencies which shall include the department of administration; the department

1 of environmental management; the department of education; the department of transportation; the
2 department of labor and training; the office of the state building code commissioner; the Rhode
3 Island infrastructure bank, and the Rhode Island league of cities and towns.

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

6 (4) Of the initial eleven (11) public members, six (6) shall serve three (3) year terms and
7 five (5) shall have two (2) year terms. Each appointing authority shall appoint two (2) public
8 members to three (3) year terms with the remainder of the public member appointments serving
9 two year terms. Thereafter, all public members shall be appointed to three (3) year terms.

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

16 (d) The green buildings advisory committee shall:

17 (1) Make recommendations regarding an ongoing evaluation process of the green buildings
18 act to help the department and the executive climate change coordinating council implement this
19 chapter;

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

23 (3) Establish clear, measurable targets for implementing the standards, defined in this
24 chapter, for all public major facility projects including timeline, workforce needs, anticipated costs
25 and other measures identified by the green buildings advisory committee and required by chapter
26 6.2 of title 42 ("2021 act on climate").

27 (4) The advisory council shall identify ways to monitor and document ongoing operating
28 savings and greenhouse gas emission reductions that result from public major facility projects
29 designed, constructed and certified as meeting the LEED, LEED for Neighborhood Development,
30 SITES certified standard, Green Globes, Northeast Collaborative for High-Performance Schools
31 Protocol, Version 1.1 or above and annually publish a report to the general assembly and the
32 executive climate change coordinating council of findings and recommended changes in policy.

33 ~~(e) The department shall create a green buildings advisory committee composed of~~
34 ~~representatives from the design, construction, lumber, and building materials industries involved~~

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

6 ~~(f) The provisions related to LEED for Neighborhood Development and SITES shall~~
7 ~~continue through December 31, 2020, for up to four (4) projects selected by the department, subject~~
8 ~~to evaluation and continuation by the general assembly thereafter.~~

9 (e) All requests for proposals, requests for information, requests for bids, requests for
10 design/build, requests for construction managers, and any requests relating to obtaining the
11 professional services, pricing, and construction for major facility projects by a public agency for a
12 public facility, shall include the notice of the statutory requirements of chapter 24 of title 37 ("the
13 green buildings act").

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

27 **37-24-6. Protection from liability.**

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

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

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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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