

House Bill 1628

By: Representative Lim of the 99th

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia
2 Annotated, relating to general authority, duties, and procedure of state purchasing, so as to
3 require entities furnishing certain materials to the state to identify held environmental and
4 fair trade certifications, and require certain entities to hold environmental certifications in
5 order to furnish certain materials to the state; to amend Article 1 of Chapter 8 of Title 50 of
6 the Official Code of Georgia Annotated, relating to general provisions of the Department of
7 Community Affairs, so as to require the Department of Community Affairs to adopt and
8 annually update various building standards related to energy conservation, maintenance, and
9 environmental standards, and to give preference to building projects that meet said standards;
10 to require the Department of Community Affairs to adopt a State Building Rehabilitation
11 Code based on the Nationally Applicable Recommended Rehabilitation Provisions developed
12 by the United States Department of Housing and Urban Development and with certain
13 additional standards; to require that entities which receive funds pursuant to certain grants,
14 loans, or disbursements or which contract with the state for certain purposes, maintain certain
15 environmental certifications and when involved with construction projects complete an
16 environmental site assessment; to require the Department of Community Affairs to adopt
17 minimum energy portfolio standards for covered commercial buildings with certain
18 requirements and exemptions and to provide incentives for early implementation of said

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19 standards; to require notice and reporting on said standards and incentives; to provide for the
20 adoption of rules and regulations; to require local governments to justify deviations from
21 certain environmental standards when receiving said loans, grants, or disbursements; to
22 update the Code reference to certain construction standards for major facilities projects; to
23 provide for related matters; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25 **SECTION 1.**

26 Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
27 relating to general authority, duties, and procedure of state purchasing, is amended by adding
28 a new Code section to read as follows:

29 "50-5-86.

30 Every firm, corporation, partnership, or association furnishing any materials, equipment,
31 or supplies to the state government or any of its departments, institutions, or agencies shall
32 indicate any LEED, ISO 14001, or any other environmental or energy certification held by
33 the entity. Each such entity shall also indicate whether it holds an International Fairtrade
34 Certification Mark. For any contract valued at over \$100,000.00, preference among firms,
35 corporations, partnerships, or associations that do not have a principal place of business in
36 the state shall be given to such nonstate entities that hold LEED, ISO 14001, or any other
37 environmental or energy certification as determined by the department. Any firm,
38 corporation, partnership, or association that does not have a principal place of business in
39 the United States shall hold at least one of the said certifications in order to furnish any
40 materials, equipment, or supplies to the state government or any of its departments,
41 institutions, or agencies."

SECTION 2.

42
43 Article 1 of Chapter 8 of Title 50 of the Official Code of Georgia Annotated, relating to
44 general provisions of the Department of Community Affairs, is amended by adding new
45 Code sections to read as follows:

46 "50-8-7.4.

47 (a) The department shall, by rule or regulation, adopt the standards set forth in the
48 International Energy Conservation Code. Annually, by December 1, the department shall
49 revise said rules or regulations to conform to the latest available version of the International
50 Energy Conservation Code, International Existing Building Code, International Property
51 Maintenance Code, and National Green Building Standard.

52 (b) Annually, by December 1, the department shall either revise every rule or regulation,
53 which is based on a code issued by International Code Council to conform to the latest
54 available version of said code, or report to the General Assembly at the next regular session
55 its deviations from the latest available version and the department's justification for the
56 deviation.

57 (c) Where not otherwise prohibited by law, and where applicable, the department shall,
58 pursuant to Code Sections 50-8-8 and 50-8-9, give preference to buildings that have
59 complied with the building codes it deems permissive, or to any other disaster resilience,
60 other environmental standards it may promulgate.

61 (d) The department shall annually update any requirements for environmental site
62 assessments to, at a minimum, the latest available version of practices by the American
63 Society for Testing and Materials. Nothing in this subsection shall be construed to limit
64 the department's power to promulgate standards that are more stringent than the latest
65 available version.

66 (e) When appropriated by the General Assembly, the department shall allocate funds to
67 assist public and private entities located in zones designated pursuant to the Urban
68 Redevelopment Law, the Enterprise Employment Act, or Code Section 48-7-40.32, for

69 rehabilitative and new construction so long as such project complies with any mandatory
70 and permissive codes, and for any disaster resilience project, any additional environmental
71 standards it may promulgate. The department shall periodically assess the costs of such
72 developments state wide, along with economic development opportunities for renewable
73 energy in these zones.

74 50-8-7.5.

75 (a) The department shall adopt by regulation a State Building Rehabilitation Code. Said
76 code shall be modeled on the Nationally Applicable Recommended Rehabilitation
77 Provisions developed by the United States Department of Housing and Urban
78 Development.

79 (b) The purpose of the State Building Rehabilitation Code is to encourage and facilitate
80 the rehabilitation of existing buildings by reducing the costs and constraints on
81 rehabilitation resulting from existing procedures and standards.

82 (c) Said code shall, at a minimum:

83 (1) Maintain a level of safety consistent with existing codes, and provide for multiple
84 categories of work with multiple compliance standards;

85 (2) Be enforceable by local officials using existing enforcement procedures;

86 (3) Apply to repair, renovation, modification, reconstruction, change of occupancy, or
87 addition to an existing building;

88 (4) Provide an expedited review process for proposed amendments to the code submitted
89 by a local government or an organization that represents local governments; and

90 (5) Contain provisions that provide an opportunity for a person proposing a complex
91 rehabilitation project involving multiple codes, prior to the submission of a construction
92 permit application, to meet with local officials or their designees responsible for permit
93 approval and enforcement in construction related laws and regulations that may be
94 applicable to the rehabilitation project.

95 50-8-7.6.

96 (a)(1) By January 1, 2023, the department shall establish, by rule, a state energy
97 performance standard for covered commercial buildings.

98 (2) In developing energy performance standards, the department shall seek to maximize
99 reductions of greenhouse gas emissions from the building sector. The standard shall
100 include energy use intensity targets by building type and methods of conditional
101 compliance that include an energy management plan, operations and maintenance
102 program, energy efficiency audits, and investment in energy efficiency measures
103 designed to meet the targets. The department shall use ANSI/ASHRAE/IES
104 standard 100-2018 as an initial model for standard development. The department shall
105 update the standard every five years thereafter.

106 (b) In establishing the standard under subsection (a) of this Code section, the department:

107 (1) Shall develop energy use intensity targets that are no greater than the average energy
108 use intensity for the covered commercial building occupancy type with adjustments for
109 unique energy using features. The department shall consider regional and local building
110 energy utilization data, such as existing energy star benchmarking data, in establishing
111 targets for the standard. Energy use intensity targets shall be developed for two or more
112 climate zones and be representative of energy use in a normal weather year;

113 (2) May consider building occupancy classifications from ANSI/ASHRAE/IES
114 standard 100-2018 and the United States environmental protection agency's energy star
115 portfolio manager when developing energy use intensity targets;

116 (3) May implement lower energy use intensity targets for more recently built covered
117 commercial buildings based on the state energy code in place when the buildings were
118 constructed; and

119 (4)(A) Shall adopt a conditional compliance method that ensures that covered
120 commercial buildings that do not meet the specified energy use intensity targets are
121 taking action to achieve reduction in energy use, including investment criteria for

122 conditional compliance that ensure that energy efficiency measures identified by energy
123 audits are implemented to achieve a covered commercial building's energy use intensity
124 target. The investment criteria shall require that a building owner adopt an
125 implementation plan to meet the energy intensity target or implement an optimized
126 bundle of energy efficiency measures that provides maximum energy savings without
127 resulting in a savings-to-investment ratio of less than 1.0, except as provided in
128 subparagraph (B) of this paragraph. The implementation plan shall be based on an
129 investment grade energy audit and a life-cycle cost analysis that accounts for the period
130 during which a bundle of measures will provide savings. The building owner's cost for
131 implementing energy efficiency measures shall reflect net cost, excluding any costs
132 covered by utility or government grants. The implementation plan may exclude
133 measures that do not pay for themselves over the useful life of the measure and
134 measures excluded pursuant to subparagraph (B) of this paragraph. The
135 implementation plan may include phased implementation such that the building owner
136 shall not be required to replace a system or equipment before the end of the system or
137 equipment's useful life; and

138 (B) For those buildings or structures that are listed in the state or national register of
139 historic places; designated as a historic property under local or state designation law or
140 survey; certified as a contributing resource with a national register listed or locally
141 designated historic district; or with an opinion or certification that the property is
142 eligible to be listed on the national or state registers of historic places either
143 individually or as a contributing building to a historic district by the state historic
144 preservation officer or the keeper of the national register of historic places, no
145 individual energy efficiency requirement need be met that would compromise the
146 historical integrity of a building or part of a building.

147 (c) Based on records obtained from each county assessor and other available information
148 sources, the department shall create a data base of covered commercial buildings and

149 building owners required to comply with the standard established in accordance with this
150 Code section.

151 (d) By July 1, 2023, the department shall provide the owners of covered buildings with
152 notification of compliance requirements.

153 (e) The department shall develop a method for administering compliance reports from
154 building owners.

155 (f) The department shall provide a customer support program to building owners,
156 including, but not limited to, outreach and informational material, periodic training, phone
157 and email support, and other technical assistance.

158 (g) The building owner of a covered commercial building shall report the building owner's
159 compliance with the standard to the department in accordance with the schedule established
160 under subsection (h) of this Code section and every five years thereafter. For each
161 reporting date, the building owner shall submit documentation to demonstrate that:

162 (1) The weather normalized energy use intensity of the covered commercial building
163 measured in the previous calendar year is less than or equal to the energy use intensity
164 target;

165 (2) The covered commercial building has received conditional compliance from the
166 department based on energy efficiency actions prescribed by the standard; or

167 (3) The covered commercial building is exempt from the standard by demonstrating that
168 the building meets one of the following criteria:

169 (A) The building did not have a certificate of occupancy or temporary certificate of
170 occupancy for all 12 months of the calendar year prior to the building owner
171 compliance schedule established under subsection (h) of this Code section;

172 (B) The building did not have an average physical occupancy of at least 50 percent
173 throughout the calendar year prior to the building owner compliance schedule
174 established under subsection (h) of this Code section;

- 175 (C) The sum of the building's gross floor area minus unconditioned and
176 semiconditioned spaces is less than 50,000 square feet;
- 177 (D) The primary use of the building is manufacturing or other industrial purposes, as
178 defined under the Factory Group F or High-hazard Group H use designations of the
179 International Building Code;
- 180 (E) The building is an agricultural structure; or
- 181 (F) The building meets at least one of the following conditions of financial hardship:
- 182 (i) The building had arrears of property taxes or water or waste-water charges that
183 resulted in the building's inclusion, within the prior two years, on a city's or county's
184 annual tax lien sale list;
- 185 (ii) The building has a court appointed receiver in control of the asset due to financial
186 distress;
- 187 (iii) The building is owned by a financial institution through default by a borrower;
- 188 (iv) The building has been acquired by a deed in lieu of foreclosure within the
189 previous 24 months;
- 190 (v) The building has a senior mortgage subject to a notice of default; or
- 191 (vi) Other conditions of financial hardship identified by the department by rule.
- 192 (h) A building owner of a covered commercial building shall meet the following reporting
193 schedule for complying with the standard established under this Code section:
- 194 (1) For a building with more than 200,000 gross square feet, June 1, 2026;
- 195 (2) For a building with more than 90,000 gross square feet but less than 200,001 gross
196 square feet, June 1, 2027; and
- 197 (3) For a building with more than 50,000 gross square feet but less than 90,001 square
198 feet, June 1, 2028.
- 199 (i)(1) The department may issue a notice of violation to a building owner and any agent
200 thereof, including, but not limited to, any property management, for noncompliance with

201 the requirements of this Code section. A determination of noncompliance may be made
202 for any of the following reasons:

203 (A) Failure to submit a compliance report in the form and manner prescribed by the
204 department;

205 (B) Failure to meet an energy use intensity target or failure to receive conditional
206 compliance approval;

207 (C) Failure to provide accurate reporting consistent with the requirements of the
208 standard established under this Code section; or

209 (D) Failure to provide a valid exemption certificate.

210 (2) In order to create consistency with the implementation of the standard and rules
211 adopted under this Code section, the department shall reply and cite the section of law,
212 code, or standard in a notice of violation for noncompliance with the requirements of this
213 Code section when requested to do so by the building owner or the building owner's
214 agent.

215 (j) The department may impose an administrative penalty upon a building owner or any
216 agent thereof, including, but not limited to, any property manager for failing to submit
217 documentation demonstrating compliance with the requirements of this Code section. The
218 penalty shall not exceed an amount equal to \$5,000.00 plus an amount based on the
219 duration of any continuing violation. The additional amount for a continuing violation may
220 not exceed a daily amount equal to one dollar per year per gross square foot of floor area.
221 The department may by rule increase the maximum penalty rates to adjust for the effects
222 of inflation.

223 (k) The department shall adopt rules as necessary to implement this Code section,
224 including, but not limited to:

225 (1) Rules necessary to ensure timely, accurate, and complete reporting of building energy
226 performance for all covered commercial buildings;

227 (2) Rules necessary to enforce the standard established under this Code section; and

228 (3) Rules that provide a mechanism for appeal of any administrative penalty imposed by
229 the department under this Code section.

230 (l) Upon request by the department, each county assessor shall provide property data from
231 existing records to the department as necessary to implement this Code section.

232 (m) By January 15, 2024, and each year thereafter through 2029, the department shall
233 submit a report to the Governor and the appropriate committees of the General Assembly
234 on the implementation of the state energy performance standard established under this
235 Code section. The report shall include information regarding the adoption of the
236 ANSI/ASHRAE/IES standard 100-2018 as an initial model, the financial impact to
237 building owners required to comply with the standard, and any other significant
238 information associated with the implementation of this Code section.

239 50-8-7.7.

240 (a) The department shall establish a state energy performance standard early adoption
241 incentive program.

242 (b) The department shall adopt application and reporting requirements for the incentive
243 program. Building energy reporting for the incentive program shall be consistent with the
244 energy reporting requirements established pursuant to Code Section 50-8-7.6.

245 (c)(1) Upon receiving documentation demonstrating that a building owner qualifies for
246 an incentive under this Code section, the department shall authorize each applicable
247 entity administering incentive payments to make an incentive payment to the building
248 owner.

249 (2) When a building is served by more than one entity offering incentives or more than
250 one type of fuel, incentive payments shall be proportional to the energy use intensity
251 reduction of each specific fuel provided by each entity.

252 (3) Each qualifying utility shall administer incentive payments for the state energy
253 performance standard early adoption incentive program on behalf of its customers who

254 are eligible building owners of covered commercial buildings or multifamily residential
255 buildings, consistent with the requirements of this Code section. Any thermal energy
256 company, electric utility, or gas company not otherwise required to administer incentive
257 payments may voluntarily participate by providing notice to the department in a form and
258 manner prescribed by the department.

259 (d) An eligible building owner may receive an incentive payment in the amounts specified
260 in subsection (f) of this Code section only if the following requirements are met:

261 (1) The building is either:

262 (A) A covered commercial building subject to the requirements of the standard
263 established pursuant to Code Section 50-8-7.6; or

264 (B) A multifamily residential building where the floor area exceeds 50,000 gross
265 square feet, excluding the parking garage area;

266 (2) The building's baseline energy use intensity exceeds its applicable energy use
267 intensity target by at least 15 energy use intensity units;

268 (3) At least one electric utility, gas company, or thermal energy company providing or
269 delivering energy to the covered commercial building is participating in the incentive
270 program by administering incentive payments; and

271 (4) The building owner complies with any other requirements established by the
272 department.

273 (e)(1) An eligible building owner who meets the requirements of subsection (d) of this
274 Code section may submit an application to the department for an incentive payment in
275 a form and manner prescribed by the department. The application shall be submitted in
276 accordance with the following schedule:

277 (A) For a building with more than 220,000 gross square feet, beginning July 1, 2024,
278 through June 1, 2028;

279 (B) For a building with more than 90,000 gross square feet but less than 220,001 gross
280 square feet, beginning July 1, 2024, through June 1, 2028; and

281 (C) For a building with more than 50,000 gross square feet but less than 90,001 gross
282 square feet, beginning July 1, 2021, through June 1, 2027.

283 (2) The department shall review each application and determine whether the applicant
284 is eligible for the incentive program and if funds are available for the incentive payment
285 If the department certifies an application, it shall provide verification to the building
286 owner and each entity participating and providing service to the building owner.

287 (f) An eligible building owner that demonstrates early compliance with the applicable
288 energy use intensity target under the standard established pursuant to Code
289 Section 50-8-7.6 may receive a base incentive payment of 0.85 dollars per gross square
290 foot of floor area, excluding parking, unconditioned, or semi-conditioned spaces. Said
291 incentives shall be subject to the limitations and requirements of this Code section,
292 including any rules or procedures adopted thereto.

293 (g) The department shall establish requirements for the verification of energy consumption
294 by the building owner and each participating electric utility, gas company, and thermal
295 energy company.

296 (h) The department shall provide an administrative process for an eligible building owner
297 to appeal a determination of an incentive eligibility or amount.

298 (i) By September 30, 2025, and every two years thereafter, the department shall report to
299 the appropriate committees of the General Assembly the results of the incentive program
300 established by this Code section and may provide recommendations to improve the
301 effectiveness of the program. The 2025 report to the General Assembly shall include
302 recommendations for aligning the incentive program established under this Code section
303 consistent with a goal of reducing greenhouse gas emissions from substitutes.

304 (j) The department may adopt rules so as to carry out the purposes of this Code section."

305 **SECTION 3.**

306 Said article is further amended in Code Section 50-8-8, relating to grants, loans, and other
307 disbursements of funds and state community development program, by adding new
308 subsections to read as follows:

309 "(j) Any entity that receives funds pursuant to this Code section shall indicate any LEED,
310 ISO 14001, or any other environmental or energy certification held by the entity. For fund
311 distributions valued at over \$100,000.00, preference among firms, corporations,
312 partnerships, or associations shall be given to such entities that hold LEED, ISO 14001, or
313 any other environmental or energy certification as determined by the department.

314 (k) Any entity that receives funds pursuant to this Code section that are to be used in
315 construction shall complete an environmental site assessment.

316 (l) Any qualified local government that receives funds under this Code section shall
317 provide explanation of any deviation in their building codes from the building codes issued
318 by the department, including but not limited to those issued pursuant to Code Section
319 50-8-7.4."

320 **SECTION 4.**

321 Said article is further amended in Code Section 50-8-9, relating to contracts with public and
322 private entities or individuals, by adding new subsections to read as follows:

323 "(f) Any entity with which the department contracts pursuant to this Code section shall
324 indicate any LEED, ISO 14001, or any other environmental or energy certification held by
325 the entity. For contracts valued at over \$100,000.00, preference among firms, corporations,
326 partnerships, or associations shall be given to such entities that hold LEED, ISO 14001, or
327 any other environmental or energy certification as determined by the department. Any
328 entity with which the department contracts pursuant to this Code section that does not have
329 a principal place of business in Georgia shall hold at least one such certification.

330 (g) Any entity with which the department contracts for construction shall complete an
331 environmental site assessment."

332 **SECTION 5.**

333 Said article is further amended by revising subsection (e) of Code Section 50-8-18, relating
334 to energy efficient construction of major state-funded facility projects, as follows:

335 "(e) All major facility projects may be designed, constructed, and commissioned or
336 modeled to exceed the standards set forth in ~~ASHRAE 90.1.2004~~ ASHRAE.90.1.2019
337 by 30 percent where it is determined by the department that such 30 percent efficiency is
338 cost effective based on a life cycle cost analysis with a payback at no more than ten years.
339 Commissioning or modeling ~~must~~ shall be performed by a professional engineer, design
340 professional, or commissioning agent using software methodology approved by the Internal
341 Revenue Service, the Department of Energy, current ASHRAE standards, or other similar
342 methodology. For all major renovation projects, such requirements shall apply to the
343 specific building assemblies, envelope components, and equipment involved in the project."

344 **SECTION 6.**

345 All laws and parts of laws in conflict with this Act are repealed.