

AFTER OPPOSITE HOUSE REPORT

SATURDAY, MARCH 5, 2022

WA-SSA Current Alive Top Tier Bill List – After Opposite House Fiscal Cutoff

1. **SB 5862** – Commercial Energy Program – C-PACER Fix – **SUPPORT (C)**
2. **SB 5818** – Promoting Housing Construction by Limiting SEPA & GMA Appeals – **SUPPORT (A)**
3. **SB 5463/SJR 8206** – **Homestead Property Tax Exemption** – **SUPPORT**
4. **HB 1770** – Energy Codes – Banning Natural Gas via SBCC – **OPPOSE (A)**
5. **SB 5722** – Performance Standards for Buildings (Under 50,000 feet) – **NEUTRAL (C)**

Additional information about these bills, their sponsors, their current status, and more below.

(C) = Commercial; (R) = Residential; (M) = Manufactured Housing; (A) = All

SUPPORT

1. SB 5862 – Commercial Energy Program – C-PACER Fix

Original Bill

- Clarifies the responsibilities of a capital provider of Commercial Property Assessed Clean Energy and Resiliency (C-PACER) funds to include the billing, collection, and enforcement of delinquent C-PACER liens or installments.
- Authorizes a delinquent C-PACER lien to be foreclosed in the same manner as a mortgage lien.
- Specifies the order of application of proceeds of the foreclosure sale of the property.

Amended Bill

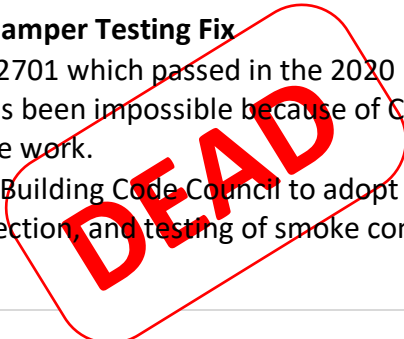
- Further clarifies the responsibilities of a capital provider with regards to the billing, collection, and enforcement of delinquent C-PACER liens.
- Adds an emergency clause and takes effect immediately.

Sponsors: *Senators Lovelett, Rivers, Fortunato, Gildon, Kuderer, Lovick, Nguyen, Nobles, Stanford, Wilson, C., Wilson, J.*

STATUS SB: Passed House: 95 – 3

2. HB 1971 – Smoke & Fire Damper Testing Fix

- This is a Fix for HB 2701 which passed in the 2020 legislative session but whose implementation has been impossible because of COVID and lack of qualified, trained inspectors to do the work.
- Requires the State Building Code Council to adopt rules related to the installation, maintenance, inspection, and testing of smoke control systems and fire and smoke dampers.



- Replaces current law related to inspection and testing timelines, personnel qualifications, and potential penalties for violations with new provisions.

Sponsors: *Representatives Robertson, Senn, Eslick, Leavitt*

STATUS HB: **DEAD** – House Floor

3. SB 5354 – Addressing Traffic Control in Large Cities (Needs BOMA Amendment)

- Authorizes a single flagger, in large cities, to control traffic from the center of an intersection without the presence of a police officer.
- Must be part of a city’s approved traffic control plan.
- Needs to be Amended for BOMA so that it applies to more cities and includes commercial buildings.

Sponsors: *Senators Saldaña, King and Nguyen.*

STATUS SB: **DEAD** – House Transportation Committee

4. SB 5818 – Promoting Housing Construction by Limiting SEPA & GMA Appeals

Original Bill

- Exempts a fully planning city's adopted housing action plan strategies, and permanently exempts optional residential building capacity actions, from review and legal challenge under the Growth Management Act (GMA) and from review and appeal under the State Environmental Policy Act (SEPA).
- Exempts adoption of certain development regulations or amendments by a fully planning city that increase housing capacity and affordability and mitigate displacement, and that apply outside of critical areas, from review under the GMA and from appeal under SEPA.
- Exempts certain project actions from appeal under SEPA on the basis of or impacts to the aesthetics and light and glare elements of the environment if the project is subject to design review at the local government level.
- Directs the Department of Ecology to modify maximum thresholds in certain SEPA categorical exemptions through expedited rulemaking.

Amended Bill

- **GMA & SEPA, Exemption from Review and Appeal** – Exempts a fully planning city's adopted housing action plan strategies, and *permanently exempts optional residential building capacity actions, from review and legal challenge under the GMA & SEPA.*
- **SEPA, Categorical Exemptions** – Ecology must undergo expedited rulemaking to modify rule-based categorical exemptions to SEPA, specifically:
 - Add four attached single-family residential units to the current exemption for certain types of construction.
 - Create a new exemption level for single-family residential projects with a total sq ft of fewer than 1500 sq ft in incorporated UGAs of at least 100 units; and

- Increase the exemption level for multifamily residential project types in incorporated UGAs from 60 units to 200 units.
- **SEPA, Miscellaneous** – Project applicant is not required to file an environmental checklist or any other paperwork to prove that the project is exempt if the initial project application sufficiently shows that the project is exempt under SEPA or by rule.

House Floor Amendment

- Removes “housing action plans” from the actions that are not subject to appeal
- Restores existing language in statute that requires that actions taken by a city to increase residential building capacity be taken prior to April 1, 2023, in order to be exempt from legal challenge under the GMA.
- Provides that certain actions taken by a city to comply with a housing element are not subject to appeal under SEPA unless the action has a probable significant adverse impact on fish habitat.
- Requires the Department of Ecology to add the following sentence to its rules related to SEPA categorical exemptions for minor new construction: "The city, town, or county must document the result of its outreach with the department of transportation on impacts to state-owned transportation facilities, including consideration of whether mitigation is necessary for impacts to state-owned transportation facilities."

Sponsors: *Senators Salomon, Liias, Kuderer, Saldaña, Short.*

STATUS SB: Passed House: 97 – 1 (Back to Senate for Concurrence)

5. SB 5463/SJR 8206 – Homestead Property Tax Exemption & Constitutional Amendment

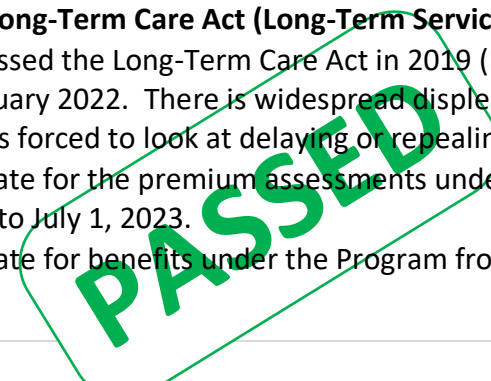
- Creates Homestead property tax exemption for \$250,000 assessed value for state property taxes, subject to approval by the voters of a constitutional amendment.
- The Washington Constitution requires all taxes to be applied uniformly on property within each taxing district. The Constitution also limits regular property tax levies to a maximum of 1% of a property's assessed value.
- SJR 8206 – Creates a Constitutional Amendment to authorize the creation of a homestead exemption for state property taxes.

Sponsors: *SB 5463 – Wilson, L.; SJR 8206 – Wilson, L., Brown*

STATUS SB: Senate Ways & Means Committee (NTIB)

6. HB 1732 – Delaying the Long-Term Care Act (Long-Term Services & Support – LTSS)

- The legislature passed the Long-Term Care Act in 2019 (LTSS) including a payroll tax that begins in January 2022. There is widespread displeasure with this new tax and the legislature was forced to look at delaying or repealing the tax.
- Delays the start date for the premium assessments under the LTSS Trust Program from Jan 1, 2022, to July 1, 2023.
- Delays the start date for benefits under the Program from Jan 1, 2025 to July 1, 2026.



- Allows individuals born before January 1, 1968, who do not meet the LTSS vesting requirements, to receive partial benefits based on the number of years of premium payments. These individuals may receive 10% of the maximum benefit for each year they worked at least 500 hours and paid the premiums.
- Requires employers to refund employees any LTSS premiums collected before July 1, 2023. The refund must be provided within 120 days of the premium collection.
- Self-employed folks must elect coverage before July 1, 2026, rather than Jan 1, 2025.
- If the employer remitted the premiums to ESD, ESD must refund the employer who is then required to refund the premiums to the employee.
- Individuals born before January 1, 1968, who do not meet vesting requirements may receive partial benefits.

Sponsors: *Representatives Sullivan, Chopp, Johnson, J., Walen, Chapman, Berry, Cody, Dolan, Fey, Macri, Peterson, Ryu, Santos, Senn, Shewmake, Wylie, Simmons, Callan, Slatter, Ramos, Bergquist, Tharinger, Valdez, Thai, Pollet, Morgan, Taylor, Stonier, Ortiz-Self, Gregerson, Davis, Riccelli, Ormsby, Duerr, Orwall, Bateman, Kloba, Frame.*

STATUS HB: **Signed by the Governor – Effective Date 1/27/2022**

CONCERNS

1. SB 5891 – Concerning Warehouse Distribution Centers

- Requires certain warehouse distribution center employers to provide specified quota information upon hire, at least annually, and no fewer than two working days before a modification.
- "Employer" means a person who directly or indirectly employs or exercises control over the wages, hours, or working conditions of 100 or more employees at a single warehouse distribution center or 1,000 or more employees at one or more warehouse distribution centers in the state.
- Prohibits requiring employees to meet quotas that interferes with rights to meal and rest breaks or exposes them to health and safety hazards or violates laws and rules.
- Requires employers to provide information if an employee believes a quota interfered with their rights or laws.
- Prohibits retaliation, including a rebuttable presumption, and provides remedies and for Department of Labor and Industries investigations.

Sponsors: *Senators Conway, Keiser, Hasegawa, Hunt, Nobles, Saldaña.*

STATUS SB: **DEAD – Senate Floor**

1. HB 1774/SB 5722 - Performance Standards for Buildings (Under 50,000 feet)

Original Bill

- This bill would apply many of the provision of building energy performance standards from HB 1257 (2019) to buildings from 20,000-50,000 square feet.
- The legislation should include direction to DOC to conduct an SBEIS as part of the two rulemakings required by the bill.

- The bill would condition the acceptance of any financial incentive for multifamily entities to Rent Control for a period of 4 years.
- The GHG adjusted energy use intensity section would apply to the larger and the smaller buildings alike and would introduce targets for GHG adjusted energy use whereby "the energy consumption of a building is adjusted to reflect the greenhouse gas emissions from each energy source used by the building".
- The bills, as introduced, contain no detail on incentive assistance, yet incentive assistance is anticipated in the bill text. However, aggressive penalties for noncompliance are in the bill, as much as \$6,000 for a 20,000 sq. Ft. building.

Amended Bill

- **Includes Small Business Economic Impact Statement** – Provides direction to DOC to conduct an SBEIS as part of the two rulemakings required by the bill (Benchmarking in 2023 and Energy Performance Standards in 2030).
- **Removes Rent Control** – No longer conditions the acceptance of any financial incentive for multifamily entities to Rent Control for a period of 4 years.
- **Removes GHG Adjusted Energy Use Intensity** – Removes this section of the bill and will not apply to larger buildings.
- **Increased Incentives** – The amount of money available for incentives is Doubled from \$75 million to \$150 million.
- Added a null and void clause, making the bill null and void unless funded in the budget.

Sponsors: *Senators Nguyen, Lias, Lovelett, Nobles, Pedersen, Saldaña, Stanford*

By Request: Office of the Governor

STATUS HB: **DEAD** – House Environment & Energy Committee

STATUS SB: Passed House: 53 – 45 (Back to Senate for Concurrence)

OPPOSED

1. SB 5139 – Rent Control after COVID

- Establishes Rent Control in WA State
- Prohibits a housing provider from increasing rent or other charges for the first 6 months after the end of the Governor's emergency eviction ban under 59.18.
- After the first 6 months expire, housing providers are then limited to only increasing rent by 3% over the previous year's consumer price index, for a subsequent six months, based on the rental rate as it was on March 1, 2020. Revises landlord and tenant provisions regarding the protection of certain residential tenants to include:

Sponsors: *Senators Das, Lovelett, Darneille, Hunt, Lias, Nguyen, Wilson, C.*

STATUS: **DEAD** – Senate Housing & Local Government Committee

2. HB 1766/SB 5668 – Regulation on Gas Companies – Banning Natural Gas via Gas Utilities

- Requires gas companies regulated by the UTC to develop and implement Clean Heat Transition Plans, with the first due by January, 2024.

- Limits gas companies' ability to provide new gas service and to install new gas equipment to meet energy conservation targets.
- Allows gas companies to provide renewable hydrogen and hydrogen produced by electrolysis as part of a renewable gas program.

Sponsors: *Representatives Ramel, Macri, Berry, Dolan, Fitzgibbon, Ryu, Wicks, Wylie, Bateman, Duerr, Shewmake, Chopp, Tharinger, Valdez, Pollet, Stonier, Goodman, Callan, Harris-Talley, Hackney, Kloba, Frame; Senators Liias, Carlyle, Conway, Das, Hunt, Lovelett, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Stanford*

By Request: Office of the Governor

STATUS HB: **DEAD** – House Environment & Energy Committee

STATUS SB: **DEAD** – Senate Environment, Energy & Technology Committee

3. HB 1767/SB 5666 – Targeted Electrification – Banning Natural Gas via Electric Utilities

- Authorizes the governing body of municipal electric utilities and public utility districts (PUDs) to adopt a targeted electrification plan that establishes a finding that utility outreach and investment in the electrification of customers' end use equipment in residential and commercial buildings will provide net benefits to the utility or PUD.
- Identifies certain benefits that may, and certain costs that must, be addressed in a targeted electrification plan.
- Authorizes municipal electric utilities and PUDs, upon the adoption of a targeted electrification plan, to offer incentives and establish other programs to accelerate the targeted electrification of homes and buildings for their customers.

Sponsors: *Representatives Ramel, Macri, Berry, Dolan, Fitzgibbon, Ryu, Wicks, Wylie, Bateman, Duerr, Shewmake, Chopp, Tharinger, Valdez, Pollet, Stonier, Goodman, Callan, Harris-Talley, Hackney, Kloba, Frame; Senators Liias, Carlyle, Conway, Das, Hunt, Lovelett, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Stanford*

By Request: Office of the Governor

STATUS HB: **DEAD** – House Floor

STATUS SB: **DEAD** – Senate Environment, Energy & Technology Committee

4. HB 1770/SB 5669 – Energy Codes – Banning Natural Gas via SBCC

Original Bill

- Attempts to codify the unlawful decision of the State Building Code Council (SBCC) to Ban Natural Gas and requires new buildings to be net-zero ready.
- Updates the minimum State Energy Code requirements for residential and nonresidential construction.
- Preempts local residential codes with the Washington State Energy Code and the Statewide Residential Reach Code.
- Requires the State Building Code Council to adopt a statewide residential reach code and requires the Department of Commerce to develop rulemaking documents and a proposal covering the technical provisions.

Amended Bill

- Eliminates the net-zero readiness requirement by 2034.
- Eliminates the requirement for an 80% reduction in annual net energy consumption from the 2006 Washington state energy code.
- Eliminates the home affordability cost analysis.

Sponsors: *Representatives Duerr, Ramel, Berry, Dolan, Fitzgibbon, Ryu, Wylie, Berg, Davis, Goodman, Macri, Peterson, Slatter, Valdez, Pollet, Hackney, Kloba, Frame*

By Request: Office of the Governor

STATUS HB: **DEAD??** – Senate Floor (NTIB)

STATUS SB: **DEAD** – Senate Environment, Energy & Technology Committee

5. HB 1951 – Creating Seller Liability with the Seller Disclosure Statements

Original Bill

- The actual knowledge standard for a seller completing the disclosure statement is removed and a seller is liable for any error, inaccuracy, or omission in the disclosure statement.
- Modifies the required seller disclosure statement in transactions for commercial real estate and improved or unimproved residential real property to require disclosure of damage from animals
- Removes a seller's option to select "don't know" and removes the actual knowledge standard for a seller completing the disclosure.
- Provides that a seller is liable for any error, inaccuracy, or omission in the seller's disclosure statement.

Amended Bill

- The substitute bill restores existing law that the previous version had attempted to change, including:
 - Eliminating a seller's option to select "don't know"
 - Eliminate the actual knowledge standard for a seller completing the disclosure
 - Directing sellers to provide any relevant information for each category of the disclosure and corresponding space for that information; and
 - Making a seller liable for any error, accuracy, or omission in the disclosure.
- The Substitute bill states that disclosures made by sellers are based on their "actual knowledge" and states that sellers are not liable for any error, inaccuracy, or omission in the disclosure statement.
- Modifies the required seller disclosure statement in transactions for commercial real estate and improved or unimproved residential real property to require disclosure of damage from animals

Sponsors: *Representatives Morgan, Fitzgibbon, Orwall, McEntire, Ryu, Ormsby, Kloba, Harris-Talley*

STATUS HB: **DEAD** – House Rules Committee

6. HB 1904 – Rent Control Lite, One-way Lease, & Limiting Late Fees

Original Bill

- Requires housing providers to give between 180-220 days' notice for all rent increases over 3%.
- Creates a one-way lease where tenants can leave at any time, even in the middle of a rental agreement term.
- Requires housing providers to inform the tenant, when they receive the notice of rent increase, that they may terminate the tenancy at any time and cannot be held liable for rent after vacating.
- Caps late fees at 1.5% of the monthly rent.
- The bill creates a term called "base rent" and specifies that the increase notice applies to base rent and does not apply to utility costs.
- Removes the 20-day notice requirement for a tenant to terminate a tenancy if a rent increase notice of 3% or more is given.
- Allows a tenant who pays the increased rent after not receiving the proper notice to sue the housing provider for the excess rent, damages, and attorney's fees.
- Establishes Rent Control in WA State for the period after a rent increase

Amended Bill

- Changes the percentage that triggers a landlord's requirement to provide extended notice 3% to 7.5%.
- Requires a tenant terminating a tenancy due to a rent increase to provide 20 days' written for a month-to-month or periodic tenancy or at least 45 days' notice for a tenancy of a specified period.
- Changes cap on late fees from 1.5% to \$75.
- Adds MHLTA tenancies to the restrictions in the bill and requires between 180- and 220-days' notice for any rent increase greater than 4%. A tenant receiving such notice may terminate the tenancy at any point prior to the effective date of the increase by providing 45 days' notice.

Sponsors: *Representatives Peterson, Morgan, Simmons, Chopp, Ormsby, Johnson, J., Ramel, Hackney, Frame, Riccelli, Lekanoff, Taylor, Bateman, Fitzgibbon, Macri, Harris-Talley, Pollet*

STATUS: **DEAD** – House Floor

7. HB 1494/HJR 4204 – Split Roll Property Tax & Constitutional Amendment

- Creates Split roll property tax by giving exemption for primary residence that must be recouped by property taxes from other properties.
- Created tax exemption for principal residences up to \$250,000 of assessed value.
- The Washington Constitution requires all taxes to be applied uniformly on property within each taxing district. The Constitution also limits regular property tax levies to a maximum of 1% of a property's assessed value.
- HJR 4204 – Creates a Constitutional Amendment to get around the "Uniformity Clause" in the WA Constitution.

Sponsors: *HB 1494* – Harris-Talley, Berg, Davis, Wicks, Peterson, Ortiz-Self, Orwall, Gregerson, Chapman, Ramel, Simmons, Berry, Lekanoff, Frame, Hackney, Slatter, Duerr, Kirby, Thai, Valdez, Ormsby, Morgan; *HJR 4204* – Harris-Talley, Berg, Wicks, Peterson, Ortiz-Self, Simmons, Gregerson, Chapman, Berry, Frame, Thai, Pollet, Ormsby, Davis, Ramel
STATUS HB: House Appropriations Committee (NTIB)

8. HB 1465 – Making the Estate Tax More Progressive by Increasing the Estate Tax

- Makes changes to the Washington Estate Tax, including increasing the exclusion amount, changing deductions, and making changes to the rates and rate structure.
- Creates the Equity in Housing Account to be funded by 10 percent of the estate tax revenues.
- Increases the Estate Taxes for moderate and large estates by as much as double.

Sponsors: *Representatives Orwall, Ramel, Ryu, Wylie, Frame, Ormsby, Valdez, Pollet, Thai, Chopp, Macri, Harris-Talley*

STATUS HB: House Finance Committee (NTIB)