

SB 870 A STAFF MEASURE SUMMARY**Senate Committee On Energy and Environment****Action Date:** 04/04/23**Action:** Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)**Vote:** 3-2-0-0**Yeas:** 3 - Golden, Lieber, Sollman**Nays:** 2 - Findley, Hayden**Fiscal:** Fiscal impact issued**Revenue:** No revenue impact**Prepared By:** Beth Reiley, LPRO Analyst**Meeting Dates:** 3/14, 3/16, 3/28, 4/4**WHAT THE MEASURE DOES:**

Makes legislative findings. Declares **intent of Act** is to provide incentives and regulations that encourage greater energy efficiency in existing and new buildings; establish energy performance standards (EPS) for existing large commercial buildings; and enhance access to commercial building energy consumption data to assist with monitoring progress toward meeting energy performance standards. **Defines “tier 1”** building as building in which the sum of gross floor area for hotel, motel, and nonresidential use equals or exceeds 35,000 square feet. Defines **“tier 2”** building as building with gross floor area that equals or exceeds 35,000 square feet and is used as multifamily residential building, hospital, school, dormitory, or university building; or building in which the sum of gross floor space for hotel, motel and nonresidential use is between 20,000 and 35,000 square feet. Excludes parking garages for tier 1 and tier 2 buildings. Requires, no later than December 31, 2024, Oregon Department of Energy (ODOE), in consultation with Department of Consumer and Business Services to adopt rules, using certain standards as model, to specify **EPS** for covered commercial buildings. Requires ODOE update the EPS no later than July 1, 2029, and every five years thereafter. Requires EPS to: comply with Act; seek to maximize reduction in greenhouse gas (GHG) emissions from covered buildings; include energy use targets that apply to specific types of buildings; require utilities to aggregate, and make available to eligible building owners, data for covered commercial buildings that have multiple meters; and provide for methods to achieve conditional compliance. Stipulates **conditional compliance**, at minimum, requires: preparing energy management plan; developing program for building operations and maintenance that aims at achieving applicable energy use target; making investments in energy use efficiency measures; and submitting to energy use audits. Stipulates adoption of EPS does not change eligibility criteria for benefits or incentives available under other energy efficiency demand response programs. Requires ODOE, in adopting the EPS, to: develop energy use targets that are no more stringent than average energy use intensity for each covered commercial building occupancy classification; consider regional and local data; consider federal and local programs that relate to energy efficiency standards; develop energy use intensity targets for two or more climate zones; develop energy use intensity targets that exclude energy delivered through electric vehicle supply equipment; and adoption of a conditional compliance method that requires owners of covered commercial buildings that do not meet energy use intensity target to take action to reduce energy and specifies investment criteria to ensure progress toward meeting energy intensity targets. Makes certain requirements of investment criteria that is part of conditional compliance method. Provides exemption from meeting energy efficiency requirement that would compromise historical integrity if building meets certain conditions. Requires ODOE to create database of eligible building owners and covered commercial buildings that are subject to Act based on county assessor records and other information available to ODOE. Requires ODOE to notify eligible business owners of requirement to comply with **tier 1** provisions no later than July 1, 2025. Authorizes municipality to adopt more stringent EPS and GHG emission- reduction standards by

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ordinance, rule, or land use process. Requires tier 1 building owner to report to ODOE, including certain information, concerning compliance with EPS at the end of each five-year period, and provides reporting exemption under certain circumstances. Requires ODOE to provide support program to eligible building owners to assist in complying with EPS. Establishes the following **EPS compliance schedule** for eligible building owner's tier 1 covered buildings: tier 1 building with gross floor area of 200,000 square feet or more, not later than June 1, 2028; tier 1 building with gross floor area of 90,000 square feet or more but less than 200,000 square feet, not later than June 1, 2029; and tier 1 building with gross floor area of 35,000 square feet or more but less than 90,000 square feet, not later than June 1, 2030. Requires ODOE to notify eligible building owner of tier 1 building of failure to comply with certain information if building owner fails to take certain actions. Authorizes ODOE to impose **civil penalty** if the building owner was issued a notice and is determined to not be in compliance with certain provisions of Act. Stipulates civil penalty may not exceed \$5,000 plus amount for duration of continuing violation to be determined based on building's square footage. Requires rules adopted by ODOE to carry out Act address certain factors. Requires ODOE to establish and consult **advisory committee** prior to adopting rules. Requires county assessors to provide information to ODOE about covered commercial buildings within the county. Requires ODOE to **report** no later than January 15, 2025, and every year after until 2035, to the Governor and legislative committees related to the environment concerning the implementation of the EPS. Requires no later than December 31, 2024, ODOE to establish a requirement and standards under which eligible **tier 2** building owners provide data to ODOE that would enable ODOE to establish a benchmark for energy use and GHG emissions from tier 2 buildings. Requires ODOE to cooperate with Department of Education when establishing requirement to provide data to minimize costs to schools and avoids and minimizes duplication. Requires no later than July 1, 2025, that ODOE notify all eligible tier 2 building owners of adopted requirements and standards. Requires eligible tier 2 building owners provide ODOE with required data no later than July 1, 2028, and every five years thereafter. Requires ODOE to evaluate and use data to calculate average energy use and GHG emissions from categories of tier 2 buildings no later than July 1, 2029. Requires ODOE to consult advisory committee to identify and evaluate implications of establishing an EPS for tier 2 buildings no later than July 1, 2025. Requires ODOE submit report to Governor and legislative committees related to the environment on recommendation of tier 2 buildings no later than October 1, 2030. Requires ODOE to contract with another person to administer incentive payments for early compliance with EPS for eligible building owners. Requires ODOE to establish program to pay **incentives** to eligible building owners who implement certain standards or the EPS for covered commercial buildings before adoption and implementation is mandatory. Prohibits ODOE from certifying eligible business owner for incentive payment if it would exceed \$__ for a tier 1 or a tier 2 building with more than 35,000 square feet, or \$__ for a tier 2 building with 35,000 or fewer square feet. Requires ODOE to report to legislative committee on energy no later than September 30, 2026, and every two years thereafter, on incentive program. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Process of Resilient Efficient Buildings Task Force
- Consistency with Washington state energy performance standard
- Federal funding opportunities

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

In 2022, the Oregon Legislative Assembly enacted Senate Bill 1518 which established the Resilient Efficient Buildings Task Force (Task Force). Senate Bill 1518 directed the Task Force to identify and evaluate policies related to building codes and building decarbonization for new and existing buildings that would enable the state to meet the greenhouse gas emission reduction goals (ORS 468A.205) while maximizing additional benefits. One policy area explored by the Task Force was the creation of a building performance standard which would establish

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specific performance levels that buildings must achieve.

Senate Bill 870 A would direct the Oregon Department of Energy, in consultation with the Department of Consumer and Business Services, to adopt rules to specify an energy performance standard for covered commercial buildings by December 31, 2024.