

Assembly Bill No. 1058

Passed the Assembly September 12, 2007

Chief Clerk of the Assembly

Passed the Senate September 11, 2007

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 18909, 18917.2, 18927, and 18941.5 of, to add Sections 18914.4 and 18918.4 to, and to add Chapter 4.7 (commencing with Section 18944.50) to Part 2.5 of Division 13 of, the Health and Safety Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1058, Laird. Green building construction: best practices.

(1) Existing law sets forth various requirements for energy and design efficiency in the construction and renovation of state buildings.

This bill would require the Department of Housing and Community Development, by July 1, 2009, in conjunction with a specified working group of certain state entities that it would coordinate, and, in consultation with specified public and private sector organizations, to develop green building standards for residential occupancies, and submit them to the Building Standards Commission for review, adoption, approval, and publication. The bill would require that the green building standards include measures regarding energy, water, materials and resources efficiency, indoor environmental quality, innovation and design process, nonmotorized transportation, and a method for determining life-cycle cost. The department, and other specified entities, in developing and adopting the green building standards, would be required to consider certain aspects of existing relevant guidelines. The bill would require a state agency, on or before July 1, 2009, to submit to the commission for review, approval, and publication, all of the state agency's green building standards that are existing on that date and that have not been previously reviewed, approved, or adopted by the commission.

The bill would authorize the department and the commission, to the extent feasible as allowed by existing resources, to develop educational and technical assistance programs to inform local entities of the benefits of green building, and encourage the use of green building practices for residential occupancies, as well as establish specified ongoing education and training programs.

The bill would require the commission, on or before July 1, 2010, to publish approved green building standards in the California Building Standards Code, after reviewing the green building standards.

(2) The California Building Standards Law defines terms for its purposes, including “building standard,” and requires the governing body of a city, county, or city and county that establishes more restrictive building standards than those in the California Building Standards Law to make specified findings.

The bill would include sustainable and green building standards in that definition of “building standard,” and would define “sustainable building” and “green building” for purposes of the California Building Standards Law. The bill also would require a governing body that makes one of those findings to file with the commission a copy of the finding, together with a copy of the modified or changed language to which the finding refers.

The people of the State of California do enact as follows:

SECTION 1. Section 18909 of the Health and Safety Code is amended to read:

18909. (a) “Building standard” means any rule, regulation, order, or other requirement, including any amendment or repeal of that requirement, that specifically regulates, requires, or forbids the method of use, properties, performance, or types of materials used in the construction, alteration, improvement, repair, or rehabilitation of a building, structure, factory-built housing, or other improvement to real property, including fixtures therein, and as determined by the commission.

(b) Except as provided in subdivision (d), “building standard” includes architectural and design functions of a building or structure, including, but not limited to, number and location of doors, windows, and other openings, stress or loading characteristics of materials, and methods of fabrication, clearances, and other functions. “Building standard” includes sustainable and green building standards.

(c) “Building standard” includes a regulation or rule relating to the implementation or enforcement of a building standard not otherwise governed by statute, but does not include the adoption of procedural ordinances by a city or other public agency relating

to civil, administrative, or criminal procedures and remedies available for enforcing code violations.

(d) “Building standard” does not include any safety regulations that any state agency is authorized to adopt relating to the operation of machinery and equipment used in manufacturing, processing, or fabricating, including, but not limited to, warehousing and food processing operations, but not including safety regulations relating to permanent appendages, accessories, apparatus, appliances, and equipment attached to the building as a part thereof, as determined by the commission.

(e) “Building standard” does not include temporary scaffolding and similar temporary safety devices and procedures that are used in the erection, demolition, moving, or alteration of buildings.

(f) “Building standard” does not include any regulation relating to the internal management of a state agency.

(g) “Building standard” does not include any regulation, rule, order, or standard that pertains to mobilehomes, manufactured homes, commercial coaches, special purpose commercial coaches, or recreational vehicles.

(h) “Building standard” does not include any regulation, rule, or order or standard that pertains to a mobilehome park, as defined by Section 18214, or special occupancy park, as defined by Section 18862.43, except that “building standard” includes the construction of permanent buildings and plumbing, electrical, and fuel gas equipment and installations within permanent buildings in a mobilehome park or special occupancy park. For purposes of this subdivision, “permanent building” means any permanent structure constructed in the mobilehome park or special occupancy park that is a permanent facility under the control and ownership of the park operator.

(i) “Building standard” does not include any regulation, rule, order, or standard that pertains to mausoleums regulated under Part 5 (commencing with Section 9501) of Division 8.

(j) “Building standard” does not include any regulation adopted by the California Integrated Waste Management Board, the Department of Toxic Substances Control, the Occupational Safety and Health Standards Board, or the State Water Resources Control Board concerning the discharge of waste to land or the treatment, transfer, storage, resource recovery, disposal, or recycling of the waste.

SEC. 2. Section 18914.4 is added to the Health and Safety Code, to read:

18914.4. “Green building” has the same meaning as “sustainable building,” as defined by Section 18918.4.

SEC. 3. Section 18917.2 of the Health and Safety Code is amended to read:

18917.2. “Propose” refers, with respect to the procedure for promulgation of a building standard, including a green building standard, to the state agency that has the legislative authority and responsibility to write proposed building standards, including green building standards.

SEC. 4. Section 18918.4 is added to the Health and Safety Code, to read:

18918.4. “Sustainable building” means a building designed to reduce both direct and indirect environmental consequences associated with its construction, use, operation, maintenance, and eventual decommissioning, the design of which is evaluated for cost, quality-of-life impacts, future flexibility, ease of maintenance, energy and resource efficiency, and overall environmental impact, with an emphasis on life-cycle cost analysis.

SEC. 5. Section 18927 of the Health and Safety Code is amended to read:

18927. The commission may appoint from the design professions, the building and construction industry, the affected general public, and interested governmental agencies, appropriate advisory panels to advise the commission and its staff with respect to building standards, including green building standards. The persons appointed to the panels shall be specifically knowledgeable and qualified in the type of work embraced by the building standards, including green building standards, in question. These persons shall serve without compensation, but may receive actual necessary travel expenses.

SEC. 6. Section 18941.5 of the Health and Safety Code is amended to read:

18941.5. (a) (1) Amendments, additions, and deletions to the California Building Standards Code adopted by a city, county, or city and county pursuant to this section or pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the

commission, or at a later date after publication established by the commission.

(2) The publication date established by the commission shall be no earlier than the date the California Building Standards Code is available for purchase by the public.

(b) Neither the State Building Standards Law contained in this part, nor the application of building standards contained in this section, shall limit the authority of a city, county, or city and county to establish more restrictive building standards reasonably necessary because of local climatic, geological, or topographical conditions. The governing body shall make the finding required by Section 17958.7 and the other requirements imposed by Section 17958.7 shall apply to that finding. The governing body shall file with the commission a copy of the findings, together with the modified or changed language, that is expressly marked and identified, to which each finding refers. Nothing in this section shall limit the authority of fire protection districts pursuant to subdivision (a) of Section 13869.7. Except as otherwise provided in this subdivision, nothing in this section shall require findings required by Section 17958.7 beyond those currently required for more restrictive building standards related to housing.

SEC. 7. Chapter 4.7 (commencing with Section 18944.50) is added to Part 2.5 of Division 13 of the Health and Safety Code, to read:

CHAPTER 4.7. GREEN BUILDING STANDARDS

18944.50. The Legislature finds and declares all of the following:

(a) California is committed to providing leadership on energy, environmental, and public health issues by implementing innovative and resource efficient building design practices and other programs that improve the lives of the state's 35,000,000 residents.

(b) Buildings account for nearly 40 percent of the carbon dioxide emissions in the United States, more than any other sector.

(c) In 2006, the state had approximately 13,000,000 existing housing units, and in 2003, construction investment in the state for new residential housing totaled thirty-four billion dollars (\$34,000,000,000).

(d) The building of a 2,000-square-foot home generates three to five tons of construction waste. Cumulatively, California residences use approximately 5,600,000 acre-feet of applied water annually, and the residential sector accounts for roughly 31 percent of the electricity consumed in the state.

(e) Transforming the building environment to be more energy efficient and climate friendly is a vital tool in the fight against global warming.

(f) Sustainable building practices utilize energy, water, and materials efficiently throughout the building's life cycle; enhance indoor air quality; improve health, comfort, and productivity; incorporate environmentally preferable products, and thereby substantially reduce the costs and environmental impacts associated with long-term building operations, without compromising building performance or the needs of future generations.

(g) The widespread implementation of sustainable building standards would result in significant long-term benefits to the California environment, including reduction of runoff of water pollutants to surface water and groundwater sources, and reduction in the demand for energy, water, and sewage treatment services, as well as the fiscal and environmental impacts resulting from the expansion of these infrastructures.

(h) A United Nations' study showed that better architecture and energy savings in buildings could do more to fight global warming than all the curbs on greenhouse gases agreed to under the United Nations' Kyoto Protocol.

(i) Indepth studies of projects to analyze the cost of sustainable buildings, using detailed cost estimates, demonstrate that there may be no significant difference in the construction costs for the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) buildings versus non-LEED buildings in any of the categories.

(j) A building's energy, water, and waste disposal costs are computed over a 25-year period, or for the life of the building, and can exceed the cost of design and construction.

18944.52. It is the intent of the Legislature, in enacting this chapter, to recognize that no one set of existing sustainable building practices may encompass the state's unique economic and natural resources-related environment. It is further the intent of the Legislature to ensure that the building standards adopted pursuant

to this chapter recognize California's leadership in environmental sustainability practices by including appropriately rigorous measures and methods, and to ensure that the costs do not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable housing based on the overall benefit derived, while addressing the factors specified in subdivision (b) of Section 18944.56.

18944.54. (a) Before state agencies may develop green building standards, they shall have the authority and program expertise to do so.

(b) On or before July 1, 2009, a state agency shall submit to the commission for review, approval, and publication, all of the state agency's green building standards that are existing on that date and that have not been previously reviewed, approved, or adopted by the commission.

18944.56. (a) On or before July 1, 2009, the Department of Housing and Community Development shall develop green building standards for residential occupancies and submit them to the commission for review, adoption, approval, and publication.

(b) The green building standards developed pursuant to this section shall include, but not be limited to, all of the following:

(1) Energy efficiency, conservation, or renewable generation measures.

(2) Water efficiency, conservation, and reuse measures.

(3) Materials and resources efficiency, conservation, and reuse measures.

(4) Indoor environmental quality measures, including indoor air quality.

(5) Innovation and design process.

(6) Nonmotorized or public transportation.

(7) A method for determining life-cycle cost, including evaluating the relative effectiveness, cost, and life-cycle savings, if any, by the use of the individual or multiple green building measures specified in paragraphs (1) to (6), inclusive.

(c) To develop the green building standards pursuant to this section, the Department of Housing and Community Development shall coordinate a working group consisting of a multiagency effort, including, but not limited to, all of the following state entities:

(1) The California Environmental Protection Agency.

(2) The California Integrated Waste Management Board.

(3) The State Energy Resources Conservation and Development Commission.

(4) The State Air Resources Board.

(5) The Department of Water Resources.

(6) The Department of Housing and Community Development.

(7) The Department of General Services.

(8) The commission.

(9) The Office of the State Fire Marshal.

(d) The Department of Housing and Community Development and each state entity specified in subdivision (c) shall also consult with representatives from each of the following:

(1) The building design and construction industry.

(2) Recognized environmental and housing consumer advocacy groups.

(3) Interested local government entities.

(4) Interested public parties.

(e) Each state entity specified in subdivision (c) shall take the lead in developing recommendations for green building standards related to its particular area of expertise and may also review and comment on proposed recommendations from other state entities in order to ensure consistency with the missions, standards, and regulations of its own entity. After the Department of Housing and Community Development coordinates and considers the separate green building standards recommended by the other state entities, the Department of Housing and Community Development shall develop a set of residential green building standards and propose those green building standards to the commission.

(f) In developing and adopting green building standards pursuant to this chapter, all entities involved shall consider those aspects of existing relevant guidelines that maximize the measures and methods identified in subdivision (b). The Department of Housing and Community Development, in consultation with the commission, shall request the appropriate state entities listed in subdivision (c) to identify the relevant green building guidelines that further the purposes of this chapter, which shall include, but not be limited to, all of the following as long as they are in effect:

(1) The United States Green Building Council's Leadership in Energy and Environmental Design (LEED) for Homes rating system.

(2) The Build It Green “New Home Construction Green Building Guidelines.”

(3) The EarthCraft House program of Atlanta, Georgia.

(4) The Built Green program of the Seattle Master Builders.

(5) The Model Green Home Building Guidelines of the National Association of Home Builders (NAHB).

(g) To the extent feasible as allowed by existing resources, the Department of Housing and Community Development and the commission may develop educational and technical assistance programs to inform local entities of the benefits of green building, and encourage the use of green building practices for residential occupancies, as well as establish ongoing education and training programs for local code enforcement officials, designers, and builders on the subject of green building standards.

(h) On or before July 1, 2010, the commission shall publish approved green building standards in accordance with Section 18944.60 and, to the extent practicable, shall schedule that publication to coincide with the publication of the California Building Standards Code.

(i) The Department of Housing and Community Development shall not propose changes more than once per calendar year, and, to the extent practicable, shall coincide those changes with the review of the California Building Standards Code.

(j) Those entities specified in subdivision (c) with expertise related to green building as identified in subdivision (e) may submit to the Department of Housing and Community Development proposed changes to building standards developed pursuant to subdivision (b) of Section 18944.54 and this section, related to their area of expertise. The proposed building standards shall not reduce the environmental benefits, environmental efficiencies, or public health protections that would have been achieved by the existing standards. The commission shall consult with appropriate agencies and departments on the proposed changes prior to adoption.

(k) The commission may include in an appendix or as a separate green building document or some combination thereof, voluntary building standards or other related documents and materials that are not appropriate for a mandate in the California Building Standards Code.

(l) This section does not prohibit, limit, or supersede other green building standards developed pursuant to existing authority.

18944.60. The commission shall do all of the following:

(a) In accordance with Section 18930, review the proposed green building standards, approve them, or return them to the proposing entities with recommended amendments. When green building standards are returned for amendment, the commission shall inform the proposing entity of the specific reasons for the recommended amendments, citing the criteria required under Section 18930.

(b) Codify, including publish, all green building standards adopted and certified by the commission into the applicable parts of California Building Standards Code.

(c) Ensure consistency of format in the green building standards.

(d) Adopt any procedural regulations necessary to administer this chapter.

18944.62. On or before January 1, 2013, the green building standards adopted by the commission pursuant to this chapter shall ensure that California homes constructed under the green building standards in the California Building Standards Code are substantially equivalent to, or exceed, homes constructed using other recognized existing green building guidelines as identified in subdivision (f) of Section 18944.56, that maximize the measures and methods identified in subdivision (b) of Section 18944.56.

18944.64. The green building standards referred to in subdivision (b) of Section 18944.60 shall indicate the state entity responsible for the administration of each green building standard and any affected occupancy.

18944.66. Each state entity that adopts or proposes green building standards shall comply with Section 18931.5.

18944.68. Amendments, additions, and deletions to the green building standards adopted by a city, county, or city and county pursuant to Section 17958.7 or 18941.5, together with all applicable portions of the green building standards document, shall meet the requirements imposed by Section 18941.5.

Approved _____, 2007

Governor