HB21-1286: Information for Local Governments on Benchmarking and Building Performance Standards

House Bill 21-1286, Energy Performance for Buildings, passed the Colorado General Assembly on June 8, 2021 and went into effect on September 6, 2021. The Colorado Energy Office (CEO) has published a list of covered buildings, available on the State’s building benchmarking web page.

The bill requires owners of large commercial, multifamily, and public buildings 50,000 square feet or more in Colorado to report their annual energy use to CEO through ENERGY STAR Portfolio Manager, a free energy management tool used to track and assess energy and water consumption.

By measuring and tracking energy use in buildings, also known as benchmarking, building owners and tenants can better understand how their building’s energy performance compares to similar buildings and identify opportunities to cut energy waste.

Local government buildings are exempt from any fees, fines, or enforcement.

| Public Building Requirements |
|-------------------------------|---------------------------------|
| **Benchmarking**              | **Building Performance Standards** |
| **Requirements**              | All covered public buildings must comply with benchmarking requirements unless they are granted a waiver or exemption. | Public buildings need only comply with performance standards with regard to work on a construction or renovation project that: |
|                               |                                  | (A) Has an estimated cost of at least $500,000; |
|                               |                                  | (B) Impacts at least 25% of the covered building’s square footage; and |
|                               |                                  | (C) Excludes upgrades such as painting, flooring, or tenant finishes that do not impact energy use.* |
| **Compliance Deadlines**      | December 1, 2022 (for calendar year 2021 energy use) | June 1, 2027** |
|                               | June 1 every year thereafter     |                                                |
| **Fees**                      | No fee; Public buildings are      | No fee |

*Excludes upgrades such as painting, flooring, or tenant finishes that do not impact energy use.*
<table>
<thead>
<tr>
<th>Provisions</th>
<th>Public buildings can comply with benchmarking at the campus level [C.R.S. 25-7-142 (3)(c)(III)]</th>
<th>See above; public buildings only need to comply with standards if they undertake a large construction or renovation project</th>
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<td>Civil penalties for violations</td>
<td>Public buildings are exempt from paying any civil penalties for violations or non-compliance* [C.R.S. 25-7-122 (1)(i)(II) and 25-7-122 (8)(c)(III)]</td>
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*Note: The Air Quality Control Commission’s rules must not modify or rescind this provision. CDPHE will be the enforcement agency and will develop guidelines in accordance with the rules.

** Performance Standards need to achieve a sector-wide reduction in greenhouse gas emissions of twenty percent by 2030 as compared to 2021 levels. The Task Force will develop recommendations on how this overarching target will apply to individual buildings and will submit those to the CEO Executive Director by October 1, 2022. The Air Quality Control Commission will consider those recommendations and establish building performance standards rules on or before June 1, 2023.

Public buildings are defined as a covered building owned by:

- The State
- A Local Government
- A District or Special District Regulated Under Title 32;
- A State Institution Of Higher Education;
- A Private Institution Of Higher Education As Defined In Section 23-18-102 (9);
- A School District Created Pursuant To Article 30 Of Title 22; And
- A Charter School Authorized Pursuant To Part 1 Of Article 30.5 Of Title 22.

Covered buildings DO NOT include the following:

- A storage facility, stand-alone parking garage, or airplane hangar that lacks heating and cooling;
- A building in which more than half of the gross floor area is used for
manufacturing, industrial, or agricultural purposes; or

- A single-family home, duplex, or triplex.

Benchmarking Resources. The State, in coordination with its vendor, Overlay Consulting, will be developing a suite of resources to include a website, program information and fact sheets, FAQs, training materials including presentations, video and live webinars, and will be staffing a help center with a dedicated email and phone line to assist covered building owners with questions and completing their reporting requirements. We expect to begin outreach to covered building owners in January 2022.

Building Performance Standards Resources: Each meeting of the Building Performance Standards Task Force will be open to the public for listening. We will also post meeting minutes and agendas for each meeting and provide opportunities for public and stakeholder engagement. It is a priority of the Task Force to engage rural representatives through opportunities such as virtual stakeholder meetings, building site visits, hosting Task Force meetings from a rural location, and incorporating input into the public outreach strategy. We will also create an online resource hub to connect local governments and building owners with valuable information and programs and financing, grants, or other assistance that is available.

Technical Support, Financing and Funding: The Colorado Energy Office provides public facility owners free coaching and technical assistance throughout the life cycle of an energy performance contracting (EPC) program. Through an EPC, public buildings can leverage guaranteed energy savings into expensive building repairs and upgrades including HVAC systems, building envelope improvements, boiler replacements, lighting, renewable energy and much more. This is a budget-neutral solution to upgrade building infrastructure and save money on energy costs. Private building owners can utilize the C-PACE program. Colorado C-PACE enables owners of eligible commercial and industrial buildings to finance up to 100% of energy efficiency, renewable energy and water conservation eligible improvements.

The Department of Local Affairs Energy Impact Assistance Fund (EIAF) grant provides funding for energy efficiency and renewable energy projects. San Miguel County leveraged funding from DOLA grants to realize 20-25% in utility bill savings across county facilities through an EPC which included the installation of solar panels and battery storage. The on-site solar PV and energy improvements will provide:

- 50% of electricity used by county-owned facilities
- Full electrification of three county facilities
- A carrier-neutral broadband location for Norwood to serve the community and provide redundancy and resiliency
- A reduction of 7,704 tons of carbon dioxide
$2.371 million in cash savings to the county general fund over the project lifetime

The Colorado Clean Energy Fund received funding from the state legislature in 2021 to provide very low interest financing at <2% for energy efficiency and renewable energy projects for local governments, small businesses, and privately owned development. The intent of the fund is also to provide gap financing for smaller scale projects, particularly in rural areas.

**Overall Benefits of a State Building Performance Standard:** Local governments will reduce unnecessary spending and energy wastefulness, improve their community's building stock, and attract investment.

- Cost Savings
- Cut Energy Waste
- Improve Community’s building stock and attract investment
- Ability for building owners to compare energy use to similar buildings
- Climate Benefits
- Reduce tenant costs
- Improve Living and Working Spaces