

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 2445

5 By: Representatives Ledbetter, J. Hutchinson, Bolin, Elliott, Key
6 By: Senators Broadway, Malone
7
8

For An Act To Be Entitled

10 AN ACT TO PROMOTE THE CONSERVATION OF ENERGY AND
11 NATURAL RESOURCES IN THE DESIGN OF STATE BUILDING
12 PROJECTS THROUGH THE USE OF SUSTAINABLE BUILDING
13 RATING SYSTEMS; AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO PROMOTE THE CONSERVATION OF
16 ENERGY AND NATURAL RESOURCES IN THE
17 DESIGN OF STATE BUILDING PROJECTS.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Title 22, Chapter 3, is amended to add an
24 additional subchapter to read as follows:

25 22-3-1801. Title.

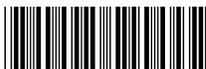
26 This subchapter shall be known and may be referred to as the "Arkansas
27 Energy and Natural Resource Conservation Act".
28

29 22-3-1802. Findings and purpose.

30 (a) It is found and determined by the General Assembly that:

31 (1) State funded building projects have a significant impact on
32 the environment of our Natural State, the economy, and the health and
33 productivity of building in habitants;

34 (2) Innovations in building science, technology, and operations
35 are available to maximize; the economic utility of state funded building
36 projects, while achieving best environmental performance, and while reducing



1 adverse impacts on the environment; and

2 (3) Incorporating principals of sustainability in building
 3 design will enhance efficient management of material resources and waste,
 4 protection of health and indoor environmental quality, reduce the longer term
 5 costs of construction and operation of state funded buildings, and promote
 6 the use of appropriate Arkansas products in the buildings.

7 (b) In recognition of the economic and environmental benefits of
 8 sustainable building design, it is in the best interest of the State of
 9 Arkansas to initiate a process to encourage improved building practices, to
 10 provide support and information to assist state agencies in carrying and the
 11 purposes of this subchapter, and to continue development of best building
 12 practices through a legislative task force to evaluate and report to the
 13 General Assembly the progress being made under this subchapter.

14
 15 22-3-1803. Definitions.

16 As used in this subchapter:

17 (1) “Adaptive reuse” means the modification, to accommodate a
 18 function other than its original intent, of any building site and existing
 19 inhabited structure;

20 (2)(A) “Building project” means any inhabited physical structure
 21 and project building site.

22 (B) “Building project” does not include ancillary
 23 structures or buildings with temporary occupancy such as park restrooms,
 24 pavilions, storage facilities, or similar structures.

25 (C) “Building project” includes any structure in which any
 26 individual spends more than an hour of time within the structure, such as
 27 residences, offices, visitors centers, classrooms, administration buildings,
 28 etc.;

29 (3) “Grant applicant” means any individual, institution,
 30 governmental jurisdiction, or other organization recognized by the granting
 31 department or agency as qualified to apply for financial assistance from any
 32 state department, agency, or office for the purpose of planning, designing,
 33 or constructing a new or rehabilitated building;

34 (4)(A) “Green Globes” means the online environmental assessment
 35 tool as developed by the Green Building Initiative as of December 2004.

36 (B) “Green Globes” allows designers, property owners, and

1 managers to evaluate and rate buildings against best sustainable building
 2 design and practices, and integrate principles of sustainable architecture at
 3 every stage of project delivery in order to design and construct buildings
 4 that will be energy and resource efficient, achieve operational savings, and
 5 provide healthier environments in which to live and work;

6 (5)(A) “Leadership in Energy and Environmental Design” means the
 7 following building rating systems developed by the United States Green
 8 Building Council:

9 (i) LEED-NC 2.1, as it exists on January 1, 2005;

10 (ii) LEED-EB, as it exists on January 1, 2005; or

11 (iii) LEED-CI, as it exists on January 1, 2005.

12 (B) “Leadership in Energy and Environmental Design” allows
 13 designers, property owners, and managers to evaluate and rate buildings
 14 against best sustainable building design and practices, and integrate
 15 principles of sustainable architecture at every stage of project delivery in
 16 order to design and construct buildings that will be energy and resource
 17 efficient, achieve operational savings, and provide healthier environments in
 18 which to live and work;

19 (6) “Newly designed construction project” means any building and
 20 its building site for which a contract has been entered into beginning July
 21 1, 2005, to construct a building and building site improvements as outlined
 22 in Leadership in Energy and Environmental Design or Green Globes rating
 23 systems;

24 (7) “Project building site” means all property associated with a
 25 building, including the defined legal description of the property or the
 26 defined project limits;

27 (8)(A) “Project check list” means a check sheet of all
 28 strategies that a state agency intends to pursue for a building project and a
 29 check sheet of all strategies obtained upon completion of the project.

30 (B) A project check list shall utilize one (1) of the
 31 rating systems under § 22-3-1804;

32 (9)(A) “Project limits” means the physical boundaries of a
 33 construction project within which all construction activity must occur.

34 (B) “Project limits” includes material and equipment
 35 storage space, lay down or prefabrication space, clearing, grubbing, and
 36 drainage improvements;

1 (10) “Project team” means the persons or individuals
2 representing the owner, professional design consultants, and building
3 contractor, if a contractor is determined prior to design;

4 (11) “Proposed construction project” means all building
5 construction projects in the conceptual planning stages for which a design
6 contract has been executed after July 1, 2005;

7 (12) “Public and private partnerships” means any private
8 development that uses state money to assist in the planning, design, or
9 construction of a building project, such as a building project providing
10 economic incentives for development;

11 (13) “Public funding” means federal or state funds that are
12 allocated for a state building project;

13 (14) “Rehabilitation project” means any building project
14 involving the modification or adaptive reuse of an existing facility in which
15 twenty-five percent (25%) or more of the physical structure, façade, or
16 interior space of a facility is being changed or modified;

17 (15) “State agency” means all departments, offices, boards,
18 commissions, and institutions of the state, including the state-supported
19 institutions of higher education;

20 (16) “State building project” means any inhabited physical
21 structure and project building site in which:

22 (A) A state agency secures the design or construction
23 contract; and

24 (B) Public funding is used in whole or in part to design
25 or construct the project; and

26 (17) “Sustainable” means that:

27 (A) A building integrates building materials and methods
28 that promote environmental quality, economic vitality, and social benefit
29 through the design, construction, and operation of the built environment;

30 (B) A building merges sound, environmentally responsible
31 practices into one (1) discipline that looks at the environmental, economic,
32 and social effects of a building or built project as a whole; and

33 (C) The design encompasses the following broad topics:

34 (i) Efficient management of energy and water
35 resources;

36 (ii) Management of material resources and waste;

- 1 (iii) Protection of environmental quality;
- 2 (iv) Protection of health and indoor environmental
- 3 quality;
- 4 (v) Reinforcement of natural systems; and
- 5 (vi) Integrating the design approach.

6

7 22-3-1804. Standards.

8 (a) If a state agency decides to pursue either the Leadership in

9 Energy and Environmental Design certification or the Green Globes

10 certification, the standards of this section shall apply for the purpose of

11 Arkansas state building projects.

12 (b)(1) Use of the Leadership in Energy and Environmental Design rating

13 system shall be with the following supplemental provisions specific to

14 Arkansas building projects:

15 (A) Under LEED Credit EQ 4.4, one (1) point shall be

16 awarded for the use of composite wood and agrifiber products if the architect

17 or responsible party provides appropriate documentation that the products are

18 third-party certified as meeting the American National Standards Institute

19 standard requirements, ANSI A208.1 for Particleboard Standard and ANSI A

20 2808.2 for MDF, for formaldehyde emissions or contain no added urea-

21 formaldehyde;

22 (B) Under LEED Credit MR 4, one (1) point shall be awarded

23 when the sum of postconsumer recycled content plus one-half (1/2) of the

24 preconsumer recycled content constitutes at least ten percent (10%) of the

25 total value of the materials in the project. A second point shall be awarded

26 if the sum of postconsumer recycled content plus one-half (1/2) of the

27 preconsumer content constitutes at least twenty percent (20%) of the total

28 value of the materials in the project. The valuation is to be determined by

29 using the LEED-NC letter template;

30 (C) Under LEED Credit MR 6, one (1) point shall also be

31 awarded for the use of renewable, bio-based materials for five percent (5%)

32 of the total value of all the products used in the project that are either

33 residuals of or products grown or harvested under a recognized sustainable

34 management system, such as the Forest Stewardship Council, the Sustainable

35 Forestry Initiative Program, the American Tree Farm System, the Canadian

36 Standards Association, the Organic Trade Association, and the Association for

1 Bamboo in Construction. The applicable vendor's or manufacturer's
 2 certification documentation must be provided;

3 (D) Under LEED Credit MR 7, one (1) point shall also be
 4 awarded for the use of renewable, bio-based raw materials certified in
 5 accordance with one (1) or more premier certification programs for
 6 environmental management for fifty percent (50%) of the total value of all
 7 bio-based materials and products used in the project. Certification programs
 8 include, but are not limited to, the Forest Stewardship Council, the
 9 Sustainable Forestry Initiative, the American Tree Farm System, the Canadian
 10 Standards Association, the Organic Trade Association, and the Association for
 11 Bamboo in Construction. The applicable vendor's or manufacturer's
 12 certification documentation must be provided;

13 (E) Under LEED Innovation in Design Credit 1.1, one (1)
 14 point will be awarded if five percent (5%) or more of the mass of all
 15 building materials used are carbon sequestering bio-based products managed
 16 under a recognized sustainable management plan; and

17 (F) Under LEED Innovation in Design Credit 1.2, one (1)
 18 point will be awarded for the use of bio-based materials derived from
 19 multiple credible certified sources supported by an environmental management
 20 system certified under the International Organization for Standardization
 21 standard ISO 14001, including the Forest Stewardship Council, the Sustainable
 22 Forestry Initiative, the American Tree Farm System, the Canadian Standards
 23 Association, the Organic Trade Association, and the Association for Bamboo in
 24 Construction. The applicable vendor's or manufacturer's certification
 25 documentation must be provided.

26 (2) Use of the Green Globes rating system shall be with the
 27 following supplemental provision specific to Arkansas building projects:

28 (A) An additional fifteen (15) points shall be awarded if
 29 five percent (5%) or more of the mass of all building materials used are
 30 carbon sequestering wood bio-based products; and

31 (B) Fifteen (15) points will be awarded for the use of
 32 bio-based materials derived from multiple credible certified sources
 33 supported by an environmental management system certified under the
 34 International Organization for Standardization standard ISO 14001, including
 35 the Forest Stewardship Council, the Sustainable Forestry Initiative, the
 36 American Tree Farm System, the Canadian Standards Association, the Organic

1 Trade Association, and the Association for Bamboo in Construction. The
2 applicable vendor's or manufacturer's certification documentation must be
3 provided.

4 (c) The State of Arkansas through the Office of Sustainability shall
5 incorporate the supplemental provisions of this section and shall govern
6 their application under this subchapter.

7
8 22-3-1805. Application to state building projects.

9 (a)(1)(A) The state agency conducting a public building project or
10 rehabilitation project that is owned or funded by a state agency shall
11 evaluate construction strategies of one (1) of the rating systems under § 22-
12 3-1804.

13 (B) Each project team prior to the start of construction
14 should participate in a preliminary review of the Leadership in Energy and
15 Environmental Design or Green Globe criteria as modified by this chapter, and
16 present the credit points that are being pursued for the project with brief
17 summaries of how each of the points is to be achieved.

18 (C) Upon completion of the project, each team will be
19 required to go through a final review of the Leadership in Energy and
20 Environmental Design or Green Globe criteria as modified by this chapter.
21 This review should include a comparison of the points achieved versus those
22 anticipated to be achieved as presented during the initial review. If
23 expected credit points were not achieved, the team should present a brief
24 summary explaining the variance. If the variance is due to cost impacts to
25 the project, these should be presented based on up front initial cost as
26 compared to life cycle costs.

27 (2) Upon submittal of checklist to the Office of Sustainability
28 a certificate of compliance shall be issued prior to commencement of
29 construction.

30 (b)(1) Subsection (a) of this section applies to all proposed
31 construction projects and newly designed construction projects, including
32 rehabilitation and adaptive reuse projects for which a contract is entered
33 into between the owner and design professional after July 1, 2005.

34 (2) Subsection (a) of this section also applies to any privately
35 developed project that is:

36 (A) Part of a public and private partnership; or

1 (B) Developed in whole or part as a result of public
2 funding for the planning, design, or construction of any building structure.

3 (c) A political subdivision of this state, including a municipal and
4 county government, may request to actively participate in the requirements of
5 subsection (a) or (b) in its respective building projects.

6
7 22-3-1806. Application to state-administered grants.

8 (a) Beginning July 1, 2005, any entity that awards a state-
9 administered grant for a public building project shall include a provision to
10 provide a project check list.

11 (b)(1) As part of the grant application, the grant applicant shall
12 provide to the grant-awarding entity under subsection (a) of this section an
13 annotated list that expressly indicates which of the points under one (1) of
14 the rating systems under § 22-3-1804 the applicant’s public building project
15 shall be designed to meet.

16 (2) A grant applicant shall provide to the granting entity a
17 project check list indicating all points under one (1) of the rating systems
18 under § 22-3-1804 achieved at the completion of the building project.

19
20 22-3-1807. Office of Sustainability.

21 (a) The Office of Sustainability is established within the Arkansas
22 Department of Environmental Quality.

23 (b) The office shall be the reviewing authority of all state building
24 projects specific to sustainable building design and practices.

25 (c) The office shall be administered as a resource for information on
26 sustainable building strategies and coordinator of all issues related to
27 sustainable design and practices for buildings which are state-owned or
28 funded.

29
30 22-3-1808. Legislative Task Force on Sustainable Building Design and
31 Practices.

32 (a) The Legislative Task Force on Sustainable Building Design and
33 Practices is established to:

34 (1) Continue to review, discuss, and advise on issues related to
35 sustainable design and practices for buildings; and

36 (2) Monitor case study projects and evaluate performance and

1 outcomes relevant to high performance building strategies.

2 (b)(1) The task force shall be composed of no more than twenty (20)
 3 members. The number of members shall be determined by agreement between the
 4 Chair of the Senate Interim Committee on Public Health, Welfare, and Labor
 5 and the Chair of the House Interim Committee on Public Health, Welfare, and
 6 Labor.

7 (2) The Chair of the Senate Interim Committee on Public Health,
 8 Welfare, and Labor and the Chair of the House Interim Committee on Public
 9 Health, Welfare, and Labor shall appoint the membership pursuant to procedure
 10 agreed upon by the chairs.

11 (3) The task force shall include members of the General Assembly
 12 and members of the public.

13 (4) The cochairs of the task force shall be members of the
 14 General Assembly. One (1) cochair shall be a member of the Senate and one
 15 (1) cochair shall be a member of the House of Representatives.

16 (c) The legislative members of the task force shall be entitled to
 17 mileage and per diem at the same rate as for attending other legislative
 18 committees.

19 (d) The task force shall receive staff support from the Bureau of
 20 Legislative Research.

21 (e) The task force shall expire on July 1, 2007, unless continued by
 22 an act of the General Assembly.

23
 24 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 25 General Assembly of the State of Arkansas that there is a need to incorporate
 26 energy and natural resource conservation measures into state buildings and
 27 state-funded buildings; that this act will assist the state to provide better
 28 use of natural resources, and that this act is immediately necessary because
 29 of the need to incorporate standards into new construction. Therefore, an
 30 emergency is declared to exist and this act being necessary for the
 31 preservation of the public peace, health, and safety shall become effective
 32 on July 1, 2005.