

Comments on 2009 Senate Bill 616

This memo outlines our comments regarding this proposed high performance green building legislation as it relates to the design, construction and operation of state and local government buildings.

The Wisconsin Society of Architects is the state component of the American Institute of Architects [AIA]. With over 1,400 individual members, AIA Wisconsin represents architects and allied design professionals in private practice, business, industry, government and education.

It's safe to say that architects were green before it was cool. In fact, continuing education related to sustainable design is required for AIA membership. We also work with allied organizations every year to promote high performance buildings by recognizing exceptional projects through the Sustainability & Energy Efficiency [SE²] Leadership Awards program. In addition, AIA members with the Division of State Facilities [DSF] have been instrumental in the development and implementation of Wisconsin's existing Sustainable Facilities Standards for state and university buildings.

Sustainable Design Incentives

AIA Wisconsin supports state programs, incentives and related initiatives that encourage sustainable and energy efficient building design, construction and operation. AIA member architects support public policies, programs and services that promote sustainable architecture and encourage energy conservation and waste reduction.

However, we are not convinced the adoption of statutory requirements that rely on a certification process through an independent building performance rating system is the most effective approach. The DSF already has implemented Sustainable Facilities Standards that are based on these building rating systems. We support an approach based on high performance building code requirements for government facilities.

State Building Code Process

AIA Wisconsin supports the development of state building codes by consensus, with the active participation of architects and allied design and construction industry professionals, using the state administrative rule-making process. This includes building code updates to improve sustainability and energy efficiency. Wisconsin building codes need to be comprehensive, coordinated and contemporary. It is important that the development process incorporates the latest research, prevents favoritism or bias to any special interest, insures that code requirements are cost effective in relation to public benefit, and promotes building code provisions that set performance rather than prescriptive requirements

Wisconsin's current building codes are based on model codes developed by the International Code Council [ICC]. They include the International Building Code [IBC], International Existing Building Code [IEBC], International Mechanical Code [IMC], International Fuel Gas Code [IFGC] and International Energy Conservation Code [IECC].

International Green Construction Code [IGCC]

Last month, the ICC released its initial public version of the International Green Building Code [IGCC] for new and existing commercial buildings. The IGCC initiative was launched last year in cooperation with the AIA and the standards-writing organization ASTM International. The green code initiative has now been joined by a standard developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers [ASHRAE], U.S. Green Building Council [USGBC] and Illuminating Engineers Society [IES] as an alternative jurisdictional compliance option within the IGCC.

The IGCC represents the first comprehensive attempt at putting into building code language a process that will help achieve sustainability goals. It aims to significantly reduce energy use and greenhouse gasses. It addresses site development, indoor air quality, renewable energy systems, water resource conservation and recovery of used water. With its emphasis on building performance and building owner education, a key feature of the IGCC is a

section on “jurisdictional electives” that will allow the new code to be adapted to address local priorities and conditions.

The public comment period on the initial draft has just begun and runs until the middle of May. The final version of the IGCC will be published in 2012, with updates scheduled every three years.

The guiding principles in the development of the IGCC were adoptability, enforceability and usability. A plus is that it will be part of the family of building codes developed by the ICC that already is being utilized in Wisconsin. The energy section of the IGCC was tasked with improving energy efficiency by 30% above 2006 IECC values.

To ensure that buildings conforming to the IGCC actually function sustainably, the code would require that a commissioning plan be submitted to building code officials along with the project’s plans and specifications and that a commissioning report be submitted within 18 to 24 months after a certificate of occupancy is issued. The report can be prepared by the architect or a third party designated by the owner and approved by code officials.

Similar to a certificate issued by a building performance rating system, the commissioning report will document whether a building meets its performance goals. There are many reasons buildings may not perform as intended, including changes in how they are used and operated. The intent of the commissioning requirements in the IGCC is not to assign blame, but rather to create a growing body of building performance information and documentation.

Building Performance Rating Systems

In 2008, the AIA analyzed three sustainable building rating systems – Green Globes for New Construction [Green Building Initiative], SBTool 07 [International Initiative for a Sustainable Built Environment], and LEED for New Construction version 2.2 [U.S. Green Building Council]. The AIA position is not to endorse any of these rating systems, but rather to provide comparative information to enhance understanding of sustainable design issues, allow architects to choose the best tool for each individual project and encourage continued improvement in all the rating systems.

The proposed legislation would require certain state and local government buildings to conform to minimum requirements established by the LEED rating system or an equivalent performance level of an equivalent rating system. As amended, certification at the LEED silver level or equivalent would be required for state buildings, but not local government facilities. It also would direct the Department of Commerce to promulgate administrative rules for complying with these requirements and certain related standards developed by other organizations. Including such specific provisions in statutory language can be problematic for various reasons and may hinder appropriate adjustments in the future.

Plan Review & Occupancy

Thousands of decisions go into the design, construction and operation of a building. When an architect, on behalf of the owner, submits plans and specifications for review by code officials to obtain a building permit, it is not possible to ensure that the completed project will meet a certain rating system level. Similarly, at the time of substantial completion of a project and request for an occupancy permit, it is not possible to ensure that the building will perform as intended and achieve a certain building rating system status. Particular rating system criteria may be beyond the control of the architect and the building owner.

It is possible to come up with scenarios where a building owner as well as the public would be better served by investing in a building component or system for which no additional rating system points will be earned than investing a similar amount for some other component that may help the project achieve a required level of rating system certification. This is where the professional judgment expected of an architect in representing the best interests of the public and client can become complicated.

Suggested Improvements

AIA Wisconsin offers the following suggestions for improving the proposed legislation:

- Include references to the International Code Council and its International Green Construction Code [IGCC] as equivalent to required building performance rating system standards and in relation to provisions directing the Department of Commerce to promulgate rules for high performance green public buildings;
- Provide exception for building projects for which there are no appropriate building performance rating system standards and/or no practical way to achieve a particular building performance rating system standard;
- Include liability protection for architects and other licensed design professionals as long as a good faith attempt was made to achieve the building performance rating system standard set for the building project; and
- Direct the Department of Commerce to establish an advisory committee with broad representation to develop recommendations on the adoption of the IGCC for state and local government building projects.

The goal of better performing green buildings is shared by AIA Wisconsin members. It often is difficult to reach consensus on how best to achieve this goal. The possibility of adapting the IGCC for certain public projects in Wisconsin may offer an attractive option.

We look forward to working with you in addressing these issues. Please let us know if you have any questions.

Wisconsin Society of Architects
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