POSITION STATEMENT FORM

GENERAL SUBJECT AREA -- TITLE OF PROPOSAL:

Authorize local jurisdictions to require commercial buildings to report publicly the energy use intensity of their buildings (benchmarking) and develop and enforce building energy performance requirements.

PROPOSAL: *(Provide brief description of legislative or funding position)*

From the Fairfax 2024 Legislative Agenda: *The state should modernize state building codes by adopting the International Green Construction Code (IgCC), the full provisions of the International Energy Conservation Code (IECC), and the energy provisions of the International Residential Code (IRC) without weakening amendments. Additionally, the state should provide localities more flexibility to increase energy efficiency and improve resilience to climate change impacts, by adopting stronger local standards and implementing energy efficiency and utilization disclosure/benchmarking.*

SOURCE: *(Provide the name of the agency, board, or commission generating the proposal and the date of the proposal)*

EQAC

BACKGROUND:

Legislation aimed at authorizing local jurisdiction to increase the energy efficiency of commercial buildings by requiring owners of commercial buildings to report the energy efficiency of their buildings using objective tools such as the EPA's Energy Star Portfolio Manager, developing building energy performance requirements and implementing penalties for noncompliance is crucial for several reasons:

1. **Environmental Benefits**: Improving energy efficiency reduces the overall energy consumption of buildings, which in turn lowers greenhouse gas emissions and helps combat climate change. Commercial buildings are significant contributors to energy consumption and emissions (as much as 40% of Fairfax county's GHG emissions), so improving their efficiency can have a substantial positive impact on the environment. It would help meet the Fairfax Board of Supervisors' commitment through the Communitywide Energy and Climate Plan (CECAP) to cut countywide emissions by 90% by 2050. Reducing energy consumption by buildings would also assist in meeting Virginia Clean Economy Act goals.
2. **Economic Advantages**: Energy-efficient buildings typically have lower operating costs due to reduced energy use. This can lead to significant savings for building owners and tenants over time. Additionally, energy efficiency measures often involve investments in technologies and services, creating jobs and stimulating economic growth in related industries.
3. **Public Health and Comfort**: Energy-efficient buildings tend to provide better indoor air quality and comfort for occupants. This can lead to improved health outcomes and productivity, which benefits both individuals and businesses.
4. **Long-term Sustainability**: By setting performance requirements and enforcing penalties for noncompliance, legislation encourages long-term sustainability in building practices. This helps

future-proof buildings against rising energy costs and regulatory changes, ensuring they remain valuable assets overall.

5. **Transparency and Informed Decision-Making**: Benchmarking building energy use intensity and requiring this data to be shared publicly, as it is in neighboring jurisdictions of the District of Columbia and Montgomery County promotes transparency in the real estate market. It empowers consumers to make informed decisions about their business premises, encouraging demand for energy-efficient properties and incentivizing owners to invest in efficiency upgrades.
6. **Global and Local Leadership**: Legislation focused on energy efficiency in buildings helps position a region or country as a leader in sustainability practices on the global stage. This can attract investment, businesses, and talent looking for environmentally responsible locations.

In summary, legislation that increases energy efficiency in commercial buildings through public reporting of building energy efficiency, performance requirements on building owners to reduce the energy use intensity of their buildings, and penalties for noncompliance is essential for environmental protection, economic benefits, public health, and sustainable development. It aligns economic incentives with environmental goals and promotes a more informed and efficient real estate market.

STAFF RECOMMENDATION:

(*Do not fill out-- This will be indicated by the Legislative Director and County Executive)*

POSITION STATEMENT INFORMATION SHEET

(Supplemental background information to be used by staff)

GENERAL SUBJECT AREA -- TITLE OF PROPOSAL:

Authorize local jurisdictions to require commercial buildings to report publicly the energy use intensity of their buildings (benchmarking) and develop and enforce building energy performance requirements.

ADDITIONAL BACKGROUND INFORMATION:

(Additional information may be necessary to fully develop the idea. Please assume that government relations staff may need additional technical information to fully explain the proposal and the necessity for the proposal.)

The County's Communitywide Energy and Climate Action Plan (CECAP) Implementation Plan proposed that 25% of the necessary greenhouse gas emission reductions must come from cutting energy use of buildings. It set out three strategies necessary to reach that goal:

- Strategy 1: Increase Energy Efficiency and Conservation in Existing Buildings
- Strategy 2: Electrify Existing Buildings
- Strategy 3: Implement Green Building Standards for New Buildings

The County's CECAP implementation dashboard shows that commercial buildings' electrical energy use and natural gas use have been essentially flat for the last 3 years (electrical declining 1%, natural gas increasing by 9%). The county (and the Commonwealth generally) needs evidence-based tools to drive down energy use in existing buildings. Benchmarking energy use intensity, developing building energy performance standards and enforcing compliance with those standards are effective, widely used tools state and local governments are using. Fairfax and other local jurisdictions need those tools.

The benchmarking of a non-residential building is the process of measuring its energy performance in relation to its peers in order to identify inefficient behavior. Building performance benchmarking (also known as rating or labeling) systems are becoming central in the evaluation of the energy performance of buildings. Up to 40% of the United States commercial building stock is benchmarked on the Energy Star Portfolio Manager platform including buildings from over half of Fortune 100 companies, half of the largest U.S. healthcare organizations, and increasingly, buildings from entire cities.[1] In Fairfax's neighboring jurisdictions of the District of Columbia and Montgomery County, legislation requires benchmarking energy use of commercial buildings, mandates commercial building owners to develop plans for cutting energy use, and provides for enforcement and penalties if buildings fail to meet energy reduction goals.[2]

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[1] https://www.energystar.gov/buildings/ facility-owners-and-managers/existing-buildings/ use-portfolio-manager

[2] **D.C. Law 17-250. Clean and Affordable energy Amendment Act of 2008.** **https://code.dccouncil.gov/us/dc/council/laws/17-250** Require graduated benchmarking of commercial buildings of 25,000 sq ft and larger, building energy performance requirement and penalties for noncompliance

D.C. Law 22-257. Clean Energy DC Omnibus Amendment Act of 2018. https://code.dccouncil.gov/us/dc/council/laws/22-257 Commercial property energy benchmarking, public reporting, building performance improvement requirements and penalties for non-compliance. Extending requirements to buildings 10,000 sq ft and larger.

Montgomery County **Bill 16-21 - Environmental Sustainability - Building Energy Use Benchmarking and Performance Standards** https://apps.montgomerycountymd.gov/ccllims/BillDetailsPage?RecordId=2707 County and commercial graduated benchmark of energy use intensity, building performance improvement requirement and penalties for noncompliance. Reporting required for buildings over 25,000 sq ft.

Two bills introduced in Virginia's 2022 legislative session proposed authorizing local jurisdictions to require energy use intensity benchmarking of commercial buildings, mandate building owners to develop multi-year energy performance reduction plans and develop enforcement regimens to ensure compliance.[3] Neither bill was approved. Similar bills in past sessions failed to pass.[4]

POSSIBLE SUPPORT OR OPPOSITION BY ORGANIZATIONS:

(List any organizations or groups, if any, which might be in favor of or against the proposed position)

All environmental groups should support this. Associations of government building inspectors support such laws and regulations. Fairfax county and the Virginia Association of Counties have supported such laws and regulations.

Builders may object to having to change building practices, as well as to possible increased construction costs. The greatest pushback against past proposed legislation in Virginia has come from home builders. The proposed legislation does not cover single family residential buildings. This should reduce the opposition of the home builders, who have successfully blocked past legislative proposals to incorporate more rigorous building energy efficiency standards for all new construction.

STAFF CONTACT PERSON(S):

(Provide name and phone number of County staff person(s) best able to provide any additional research or necessary information)

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[3] House Bill 379 Energy benchmarking; access to data on energy usage in certain buildings, civil penalty. Authorizes a locality to adopt an ordinance requiring utilities, upon request by the owner of a covered building, defined in the bill as any building with one or more utility accounts and a gross floor area of not less than 30,000 square feet, to provide the owner with aggregated measured energy usage data for multiple utility accounts of customers receiving service in the covered building. The bill makes such energy benchmarking mandatory for a covered building with three or more active utility accounts in which no single utility account amounts to at least 85 percent of the aggregated energy usage and optional for other covered buildings. The bill provides that the building owner shall only provide aggregated data received via the benchmarking tool subject to ENERGY STAR Portfolio Manager guidelines unless the Department of Energy gives other guidelines. Violators of the ordinance are subject to a civil penalty of not more than $2,500 to be paid into the state treasury for the general fund. The bill requires the Department to develop uniform guidelines for energy benchmarking with input from stakeholders, with such guidelines finalized no later than December 1, 2022.

SB 452 **Powers of local governments; additional powers; energy efficiency of buildings.** Requires the Board of Housing and Community Development to adopt optional building energy efficiency standards and allows localities to adopt and enforce these standards. The bill allows localities to require disclosure of energy use intensity (EUI) information to prospective buyers, lessees, and lenders at the point of sale, and to require an energy audit for the building prior to the completion of the sale if there is insufficient available data or upon request. The bill allows localities to implement energy benchmarking, requiring utilities to collect and report energy use data for covered buildings to owners, and to require utilities to maintain 12 months of aggregated data for any building with an active utility account. The bill permits localities to create a scorecard program using Energy Star Portfolio Manager and require owners to disclose data to it, subject to program guidelines. The bill allows localities to incentivize owners, operators, and agents of certain buildings to report EUI information and reduce EUI amounts. The bill allows localities to set EUI requirements for certain buildings and develop local incentive programs.

[4] HB 204 **Energy benchmarking; access to data on energy usage in covered buildings.** Authorizes a locality to adopt an ordinance requiring utilities, upon request by the owner of a building with a gross floor area of not less than 50,000 square feet (covered building), to provide its owner with combined measured energy usage data for multiple utility accounts of customers receiving service in the covered building. Such benchmarking is mandatory for a covered building with three or more active utility accounts in which no single utility account is greater than or equal to 85 percent of the aggregated energy usage, and it is optional for other covered buildings. The measure provides that the building owner shall only provide aggregated data that is provided to it to the Energy Star Portfolio Manager subject to guidelines established by the Department of Mines, Minerals and Energy (DMME). Violations of the ordinance are punishable by a fine of not more than $250. The measure requires DMME to develop uniform guidelines for benchmarking by December 1, 2018.