

LEGISLATIVE DIGEST (rev.)
(As amended in committee, 12/13/2010)

[Environment Code - Existing Commercial Buildings Energy Performance]

Ordinance amending the San Francisco Environment Code by adding Chapter 20, Sections 2000 through 2009, to adopt the San Francisco Existing Commercial Buildings Energy Performance Ordinance, requiring owners of nonresidential buildings to conduct Energy Efficiency Audits of their properties and file Annual Energy Benchmark Summaries for their buildings, and making environmental findings.

Existing Law

The City currently does not have any laws requiring energy efficiency audits or reporting for buildings.

Amendments to Current Law

The proposal would require owners of nonresidential buildings in San Francisco to obtain energy efficiency audits, as well as to annually measure and disclose energy performance. It would also require the Department of Environment to collect summary statistics about the energy performance of nonresidential buildings and make those statistics available to the public.

The proposal would require the owner of any nonresidential building in San Francisco with a gross area of 10,000 square feet or greater to conduct a comprehensive energy efficiency audit for each such building. The audits would have to meet specified industry standards and be conducted by a qualified energy professional in accordance with rules promulgated by the Director of the Department of the Environment. The size of the building would determine the scope of the audit.

The energy professional would prepare a signed report of the energy efficiency audit meeting industry standards. The report would include, among other things: a list of capital and non-capital measures that would improve the building's energy efficiency; an estimate of the approximate energy savings, avoided energy cost, and costs to implement those measures; and an estimate of the economic value of the corrective measures. The ordinance would require the building owner to file with the Department of the Environment a report confirming that the energy efficiency audit had been completed.

Building owners would also be required to use the "ENERGY STAR® Portfolio Manager"—the Environmental Protection Agency's online tool for managing building data—to track the total energy use of each non-residential building and obtain an "ENERGY STAR® Portfolio Manager Energy Performance Rating" for each entire nonresidential building. The owner would then file an Annual Energy Benchmark Summary report ("AEBS") for each covered building with the Department of the Environment. The AEBS would be based on an assessment of the entire non-residential building and related facilities made using Portfolio Manager.

No energy efficiency audit would be required for: (a) a building newly constructed less than five years prior to the date an AEBS was due; (b) a building that received the ENERGY STAR® label from the EPA for at least three of the last five years; or, (c) a building that was certified under the Leadership in Energy and Environmental Design (LEED) rating system for Existing Buildings Operation and Maintenance, within the past five years. Owners of financially distressed buildings could apply for extensions of the deadlines for completion of an energy efficiency audit or for submittal of an AEBS. If the same person owned three or more buildings subject to the Chapter, and the Energy Efficiency Audit due dates for more than one-third of those buildings fell within a single year, the building owner would only be required to complete audits for one-third of the buildings that year. The ordinance would not require an AEBS for an unoccupied building.

The Department of the Environment would annually report to the public summary statistics on Citywide energy use in nonresidential buildings and on overall compliance with the Chapter. For individual buildings covered by the ordinance, the department would report whether the building was in compliance with the Chapter, what level of energy audit was required for the building, the date of the most recent audit, and whole-building information on energy use and efficiency.

The ordinance would require building owners to make the Annual Energy Benchmark Summary report available to all tenants occupying the building in order to engage tenants in efforts to save energy.

The ordinance would set a staggered, 3-year schedule for compliance with the AEBS requirements, beginning October 1, 2011. The ordinance would also require the Department of the Environment to set a compliance schedule for energy efficiency audit reports. The first set of audits and reports would be phased in over a 3-year period, starting no later than 12 months after the effective date of the legislation. After that, energy efficiency audits and audit reports would be due on a rolling basis every five years.

Violations would be enforced through a system of administrative penalties, based in part on the size of the building, after written warning to the building owner.

The ordinance would also authorize the General Manager of the San Francisco Public Utilities Commission to develop and implement an energy audit and benchmarking plan for municipally owned buildings of greater than 10,000 square feet.

* * *

There are only two significant differences between the substitute legislation on file, dated 11/23/2010, and the version as amended in committee on 12/13/2010.

First, under the substitute legislation, the energy efficiency audits and audit reports would be due after an 18-month preparation and notification period. As amended in committee, the preparation and notification period would be reduced to 12 months.

Second, under the substitute legislation, the initial set of energy efficiency audits and audit reports would be due over a 5-year period. Under the legislation as amended in committee, the initial set of energy efficiency audits and audit reports would be due over a 3-year period, and subsequent audits and reports would be due every 5 years.