Calendar No. 131

110TH CONGRESS } SENATE { REPORT
1st Session } { 110–60

PUBLIC BUILDINGS COST REDUCTION ACT OF 2007

MAY 3, 2007.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 992]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 992) to achieve emission reductions and cost savings through accelerated use of cost-effective lighting technologies in public buildings, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

This bill accelerates the implementation of cost-effective lighting and energy-saving technologies and practices in federal and local public buildings. These improvements are expected to reduce the costs to taxpayers of operating these buildings, and to reduce the air emissions from the combustion of fossil fuels often used to generate the heat or electricity used by these buildings.

Specifically, the bill accelerates the retrofit of lighting in buildings owned or leased, subject to certain lease terms, by the General Services Administration (GSA). In addition, the bill authorizes the U.S. Environmental Protection Agency (U.S. EPA) to establish a new competitive grant program for the retrofit of public buildings owned by local units of government, subject to cost-share requirements.

The Senate Committee on Environment and Public Works has jurisdiction under Senate Rule XXV over "public buildings and improved grounds of the United States generally," including GSA buildings. The GSA owns and leases over 340 million square feet of space in more than 8,900 buildings, located in every state. The

59–010

GSA calls itself the "largest public real estate organization" in the country.

Related Executive Orders and Statutes

The bill seeks to accelerate the implementation of new requirements for federal building performance. On January 24, 2007, President Bush signed a new Executive Order that calls for an increase in energy efficiency and use of renewable fuels throughout the federal government, Executive Order (E.O.) 13423. With respect to federal buildings, the President has set as a goal that agencies should reduce the amount of energy used per square foot of building space in 2003 by 3 percent annually or 30 percent by 2015.

Executive Order 13423 amends Executive Order 13123, which was issued by President Clinton in June 1999. E.O. 13123 required each federal agency to reduce energy consumption per gross square foot at existing facilities by 30 percent by 2005 and by 35 percent by 2010, relative to a 1985 baseline.

The Energy Policy Act of 2005 (EPAct 05), Public Law No. 109–58, 109 Stat. 594 *et seq.,* extended the energy reduction goals outlined in Executive Order 13123 for existing federal buildings by mandating that agencies use a new baseline of 2003 energy consumption and achieve additional reductions per gross square foot of 2 percent each year beginning in 2006 and ending with a 20 percent reduction by the year 2015.

In the case of new building construction and major renovation, E.O. 13423 sets as a goal that agencies meet the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings, which include a target energy use of 30 percent below the average building performance for new buildings and a target of 20 percent below the average for renovations. By 2015, the goal is for 15 percent of each agency's building inventory to meet these Guiding Principles, which a number of federal agencies agreed to in early 2006.

The Executive Order provides in section 10(c) that it is not intended to be legally enforceable. The Committee concluded that it would be helpful to expedite some of the energy-efficiency goals in the Order and to embody in statute a requirement for their adoption.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that the title may be cited as the 'Public Buildings Cost Reduction Act of 2007'.

Section 2. Cost-effective technology acceleration program

Subsection 2(a) requires the Administrator of General Services to establish a program to accelerate the use of more cost-effective technologies and practices at GSA facilities. The program is required to ensure centralized oversight and responsibility for coordination of relevant government agencies' accelerated adoption of cost-effective technologies and practices, to provide technical assistance and operational guidance, and to track progress of agencies and departments under the program. The provision of technical assistance and guidance should include training of the building managers to enable them to meet the cost reduction through energy efficiency requirements and goals of this legislation. Effective training of building managers in cost reduction through energy savings could potentially pay for itself many times over. This program has several phases, established in subsections 2(b) and 2(c).

Subsection 2(b) provides that within 90 days after the date of enactment of this Act, the Administrator is directed to conduct a review of the current use and availability to GSA building managers of cost-effective, highly energy-efficient lighting technologies that are available for use in GSA facilities.

As part of the program established under subsection 2(b), not later than 180 days after the date of enactment of this Act, the Administrator is directed to establish a cost-effective lighting technology acceleration program to achieve maximum feasible replacement of existing lighting technologies with more cost-effective and energy-efficient lighting technologies in each GSA facility using available appropriations.

To implement the program established under subsection 2(b), the Administrator is required to establish a timetable including milestones for specific activities needed to replace existing lighting technologies with more cost-effective lighting technologies, to the maximum extent feasible (including at the maximum rate feasible), at each GSA facility. The goal of the timetable is to complete, using available appropriations, maximum feasible replacement of existing lighting technologies with more cost-effective lighting technologies by not later than the date that is 5 years after the date of enactment of this Act.

Subsection 2(c) directs the Administrator to ensure, not later than 180 days after the date of enactment of this Act and annually thereafter, that a manager responsible and accountable for accelerating the use of cost-effective technologies and practices is designated for each GSA facility.

In addition, subsection 2(c) directs the Administrator to develop and submit annually to Congress a plan that identifies the specific activities needed to achieve a 20-percent reduction in operational costs (from 2003 cost levels) through the application of energy-saving cost-effective technologies and practices by not later than 5 years from the date of enactment of the Act. The plan must also estimate the funds needed to achieve the 20-percent cost reduction and describe the status of the implementation of energy-efficient cost-effective technologies at GSA facilities. This plan must be implemented to the maximum extent feasible and at the fastest rate feasible, using available funds, by not later than 5 years after enactment of the Act.

Use of project bundling can combine multiple actions into a single project, and can effectively allow the combination of cost-effective technologies that may have short payback periods with other energy conservation measures that may have longer than five-year payback periods, to achieve greater overall total savings and energy use reductions. Nothing in this legislation, including the five-year payback provision (section 2(c)(2)(G)), is intended to limit or otherwise affect current authorities.

Section 3. Environmental Protection Agency demonstration grant program for local governments

Under this section, the Administrator of the Environmental Protection Agency (EPA) is directed to establish a demonstration program under which the Administrator shall provide competitive grants to assist local governments to deploy cost-effective energy-efficient technologies and practices at local government buildings.

No grant awarded under this section shall exceed $1 million and the Federal cost share is 40 percent. The bill provides for cost share waivers for economically distressed communities, which are identified through the Administrator's adoption, in guidelines published in advance, of specific objective economic criteria for such waivers. The program is authorized to receive $20 million per year for each of fiscal years 2007 through 2012, and sunsets on September 30, 2012.

Section 4. Definitions

This section establishes definitions of terms in the bill.

LEGISLATIVE HISTORY

S. 992 was introduced on March 27, 2007, and referred to the Committee on Environment and Public Works.

HEARINGS

On March 28, 2007, the Committee on Environment and Public Works held a hearing on Reducing Government Building Operational Costs through Innovation and Efficiency: Legislative Solutions. Specific testimony was taken on S. 992. Witnesses included: David Winstead, Commissioner, Public Buildings Service, U.S. General Services Administration; Kateri Callahan, President of the Alliance to Save Energy; and Melanie Townshend, Project Executive, Gilbane Building Company, Associated General Contractors of America.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 992 on March 29, 2007. The committee voted favorably by voice vote to adopt Warner Amendment 1, which added certain coordination, technical assistance, and success tracking requirements to the program required by section 2(a), and by voice vote to adopt Warner Amendment 2, as modified, which authorized reduction or waiver of the local cost share requirement for communities determined, pursuant to published objective guidelines, to be economically distressed. The committee agreed to report S. 992 by voice vote.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Summary: S. 992 would authorize the Environmental Protection Agency (EPA) to provide $120 million in grants over the 2007–2012 period to local governments for programs to reduce energy use in government buildings. In addition, the legislation would direct the General Services Administration (GSA), using existing appropriations, to increase the use of energy-efficient lighting throughout federal buildings. The legislation also would require various reports to the Congress regarding the grant program and energy efficiency in government facilities.

CBO estimates that implementing S. 992 would cost $10 million in 2008 and $85 million over the 2008–2012 period, assuming appropriation of the authorized amounts. Enacting S. 992 could affect direct spending by changing the use of existing funds, but CBO estimates it would likely have no significant effect on direct spending. However, if agencies entered into Energy Savings Performance Contracts (ESPCs) with a substantially greater value than anticipated under current law to increase the use of energy-efficient lighting in federal buildings, the bill could result in additional direct spending in the near term, and could lead to savings of future appropriated funds over the long term. Enacting the bill would not affect revenues.

S. 992 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would benefit local governments that participate in the demonstration program authorized in the bill. That program would provide $100 million over 5 years for competitive grants to assist local governments in reducing energy use in public buildings.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 992 is shown in the following table. The cost of this legislation falls within budget function 300 (natural resources and the environment).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	20	20	20	20	20
Estimated Outlays	10	16	19	20	20

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted before the end of fiscal year 2007, that the amounts authorized by the bill will be appropriated for each year beginning in 2008, and that spending will follow historical patterns for current and similar programs.

Spending subject to appropriation

EPA Grant Program. Section 3 would authorize the appropriation of $20 million annually, through 2012, for an EPA program of matching grants up to $1 million annually for local governments to reduce energy consumption by their facilities. The program would terminate on September 30, 2012. Assuming appropriation of the authorized amounts, beginning in 2008, CBO estimates that implementing this provision would cost $85 million over the 2008–2012 period.

GSA Lighting Technology Program. Section 2 would require GSA, using available appropriations, to retrofit or replace existing lighting technology in its buildings with more energy-efficient lighting technology within five years. This would build upon certain sections of Executive Order 13423—Strengthening Federal Environmental, Energy, and Transportation Management. That order set goals in many areas, including energy efficiency, renewable energy, and sustainable buildings. Based on information from GSA, CBO estimates that implementing this provision would increase the priority of replacing existing lighting technologies, but not significantly increase costs over the 2008–2012 period.

Other Provisions. The legislation would require GSA to establish a program to accelerate the use of cost-effective technologies and practices in federal buildings. The legislation also would require an annual and final report to the Congress on the matching grant program, as well as reports, plans, and recommendations within six months by GSA on energy efficiency and energy usage by federal buildings. Based on information from EPA and GSA and the cost of similar activities, CBO estimates that those provisions would cost less than $500,000 annually over the 2008–2012 period, subject to the availability of appropriated funds.

Direct spending

The bill's direction to GSA to increase energy-efficient lighting in federal buildings—using existing appropriations—could affect direct spending by changing the government's up-front commitments in Energy Savings Performance Contracts. CBO estimates, however, that S. 992 is unlikely to result in a significant change in the overall costs of such ESPCs.

The instructions for implementing Executive Order 13423—Strengthening Federal Environmental, Energy, and Transportation Management (which sets various environmental goals for federal energy usage)—recommends the use of ESPCs and other financial instruments (e.g., enhanced-use leasing) to reach the goals of the order. ESPCs enable federal agencies to enter into long-term contracts with an energy savings company (ESCO) for the acquisition of energy-efficient equipment, such as new windows, lighting, and heating, ventilation, and air-conditioning systems. Using such equipment can reduce the energy costs for a facility, and the savings from reduced utility payments can be used to pay the contractor for the equipment over time. Because the government does not pay for the equipment at the time it is acquired, the ESCO borrows money from a nonfederal lender to finance the acquisition and installation of the equipment. When an agency enters into an ESPC, the government commits to paying for the full cost of the equipment as well as the financing costs for the project. Since the ESCO faces higher borrowing costs than the U.S. Treasury, total interest payments for the equipment acquisition will be higher than if the government financed the acquisition of the equipment directly with appropriated funds.

The obligation to make payments for the equipment and the financing costs is incurred when the government signs the ESPC. Under current law, agencies can use ESPCs to acquire new energy-efficient equipment, without an up-front appropriation for the full amount of the purchase price. (Such contracts generally require payments over an extended period—up to 25 years.) Thus, consistent with government accounting principles, CBO believes that the budget should reflect that commitment as new obligations at the time that an ESPC is signed and that the authority to enter into these contracts without budget authority for the full amount of the purchase price constitutes direct spending.

Since 1988, the Department of Energy (DOE) estimates that agencies have entered into ESPCs valued over $2.6 billion. Of that amount, GSA has agreed to ESPC contracts valued at $500 million, primarily for large energy projects, including heating, ventilation, and air conditioning, boiler and chiller improvements, and lighting improvements. If GSA used existing appropriated funds for financing instruments like ESPCs for the replacement of more energy-efficient lighting technology, the bill could result in additional direct spending. However, based on information from GSA, DOE, and the Office of Management and Budget, CBO expects that under the bill, the specific ESPCs that GSA chooses to execute may increase the priority of replacing existing lighting technology, but that any such changes are not likely to significantly change the overall cost of ESPCs.

Intergovernmental and private-sector impact: S. 992 contains no intergovernmental or private-sector mandates as defined in UMRA and would benefit local governments that participate in the demonstration program authorized in the bill. That program would provide $100 million over five years for competitive grants to assist local governments in reducing energy use in public buildings.

Estimate prepared by: Federal Costs: Matthew Pickford and Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Theresa Gullo; Impact on the Private Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.