

# 52:27D-122.2

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2009 **CHAPTER:** 106

**NJSA:** 52:27D-122.2 (Authorizes enhancement of State Uniform Construction Code's energy subcode based on anticipated energy savings; provides down payment assistance to certain purchasers of homes meeting enhanced energy subcode requirements)

**BILL NO:** S702 (Substituted for A1629)

**SPONSOR(S)** Smith and Others

**DATE INTRODUCED:** January 8, 2008

**COMMITTEE:** **ASSEMBLY:** ---

**SENATE:** Economic Growth; Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** June 25, 2009

**SENATE:** June 25, 2009

**DATE OF APPROVAL:** August 6, 2009

### FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted)

#### S702

**SPONSOR'S STATEMENT** (Begins on page 9 of original bill) Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** Yes Econ. 9-15-08  
Budget 6-11-09

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

#### A1629

**SPONSOR'S STATEMENT:** (Begins on page 9 of original bill) Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes Environ. 1-28-08  
Budget 6-22-09

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

(continued)

**LEGISLATIVE FISCAL ESTIMATE:**

Yes

**VETO MESSAGE:**

No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

No

**FOLLOWING WERE PRINTED:**

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No

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No

LAW/RWH

[Second Reprint]  
**SENATE, No. 702**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Assemblywoman LINDA STENDER**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

**Senators Buono, Weinberg, Turner, Assemblywoman Handlin, Assemblyman Diegnan, Assemblywomen Greenstein, Vainieri Huttle, Assemblyman Vas, Assemblywoman Voss, Assemblyman Johnson, Assemblywoman Lampitt, Assemblymen Conaway, Connors, Bramnick, Gusciora, Assemblywoman Evans, Assemblyman Scalera and Assemblywoman Pou**

**SYNOPSIS**

Authorizes enhancement of State Uniform Construction Code's energy subcode based on anticipated energy savings; provides down payment assistance to certain purchasers of homes meeting enhanced energy subcode requirements.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on June 11, 2009, with amendments.

**(Sponsorship Updated As Of: 6/26/2009)**

1 AN ACT promoting energy efficiency in buildings and amending  
2 and supplementing P.L.1975, c.217 and amending P.L.1977,  
3 c.146.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) The Legislature hereby finds and declares:

9 a. It is the public policy of this State to encourage and facilitate  
10 the construction of energy-efficient buildings which are designed  
11 and built to reduce overall energy demand.

12 b. While energy-efficient buildings may cost more to construct,  
13 the payback period to recoup the added investment is only a few  
14 years.

15 c. Energy savings can be most fully realized when incorporated  
16 into new construction from the beginning.

17 d. It is therefore necessary and appropriate that the  
18 Commissioner of Community Affairs, in consultation with <sup>2</sup>an  
19 institution of higher education and<sup>1</sup> the Board of Public Utilities,  
20 adopt energy-efficient building codes that may exceed the  
21 requirements of national model codes.

22  
23 2. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to  
24 read as follows:

25 5. a. The commissioner shall after public hearing pursuant to  
26 section 4 of the "Administrative Procedure Act," P.L.1968, c.410  
27 (C.52:14B-4) adopt a State Uniform Construction Code for the  
28 purpose of regulating the structural design, construction,  
29 maintenance and use of buildings or structures to be erected and  
30 alteration, renovation, rehabilitation, repair, maintenance, removal  
31 or demolition of buildings or structures already erected. Prior to the  
32 adoption of said code, the commissioner shall consult with the code  
33 advisory board and other departments, divisions, bureaus, boards,  
34 councils or other agencies of State Government heretofore  
35 authorized to establish or administer construction regulations.

36 Such prior consultations with departments, divisions, bureaus,  
37 boards, councils, or other agencies of State Government shall  
38 include but not be limited to consultation with the Commissioner of  
39 Health and Senior Services and the Public Health Council prior to  
40 adoption of a plumbing subcode pursuant to paragraph b. of this  
41 section. Said code shall include any code, rule or regulation  
42 incorporated therein by reference.

43 b. The code shall be divided into subcodes which may be

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Senate SEG committee amendments adopted October 2, 2008.

<sup>2</sup>Senate SBA committee amendments adopted June 11, 2009.

1 adopted individually by the commissioner as he may from time to  
 2 time consider appropriate. These subcodes shall include but not be  
 3 limited to a building code, a plumbing code, an electrical code, an  
 4 energy code, a fire prevention code, a manufactured or mobile home  
 5 code and mechanical code.

6 These subcodes, except for the energy subcode, shall be  
 7 adoptions of the model codes of the Building Officials and Code  
 8 Administrators International, Inc., the National Electrical Code, and  
 9 the National Standard Plumbing Code, provided that for good  
 10 reasons, the commissioner may adopt as a subcode <sup>1</sup>, <sup>1</sup> a model code  
 11 or standard of some other nationally recognized organization upon a  
 12 finding that such model code or standard promotes the purposes of  
 13 this act. The initial adoption of a model code or standard as a  
 14 subcode shall constitute adoption of subsequent edition year  
 15 publications of the model code or standard <sup>1</sup>of such other nationally  
 16 recognized<sup>1</sup> organization, except as provided for in paragraphs (1)  
 17 through (4) of this subsection. Adoption of publications shall not  
 18 occur more frequently than once every three years; provided,  
 19 however, that a revision or amendment may be adopted at any time  
 20 in the event that the commissioner finds that there exists an  
 21 imminent peril to the public health, safety or welfare.

22 The energy subcode <sup>2</sup>[may] shall<sup>2</sup> be based upon the model  
 23 codes cited under this subsection <sup>2</sup>[, but] or the International  
 24 Energy Conservation Code. It<sup>2</sup> may be amended or supplemented  
 25 by the commissioner <sup>2</sup>[at any time] once before 2012<sup>2</sup> without  
 26 regard to intervals between the <sup>2</sup>[initial]<sup>2</sup> adoption of the energy  
 27 subcode <sup>2</sup>in effect on the effective date of  
 28 P.L. , c. (C. )(pending before the Legislature as this bill)<sup>2</sup>  
 29 and subsequent year revisions of that subcode. In amending or  
 30 supplementing the energy subcode, the commissioner shall rely  
 31 upon 10-year energy price projections provided by <sup>1</sup>an institution of  
 32 higher education within one year following the effective date of  
 33 P.L. , c. (C. )(pending before the Legislature as this bill), and  
 34 thereafter at three year intervals. In developing the energy price  
 35 projections, the institution of higher education shall consult with<sup>1</sup>  
 36 the Board of Public Utilities <sup>1</sup>[at three year intervals pursuant to  
 37 subsection y. of section 9 of P.L.1977, c.146 (C.52:27F-11)]<sup>1</sup> . The  
 38 commissioner shall be authorized to amend the energy subcode to  
 39 establish enhanced energy conservation construction requirements,  
 40 the added cost of <sup>1</sup>each of<sup>1</sup> which may reasonably be <sup>1</sup>[expected to  
 41 be]<sup>1</sup> recovered through energy conservation over a period of not  
 42 more than seven years. Such requirements shall include provisions  
 43 to ensure that, in all parts of the State the anticipated energy savings  
 44 shall be similarly proportionate to the additional costs of energy  
 45 subcode compliance.

1 (1) Except as otherwise provided in this subsection, the edition  
2 of a model code or standard in effect as a subcode as of July 1, 1995  
3 shall continue in effect regardless of any publication of a  
4 subsequent edition of that model code or standard. Prior to  
5 establishing the effective date for any subsequent revision or  
6 amendment of any model code or standard adopted as a subcode,  
7 the commissioner shall review, in consultation with the code  
8 advisory board, the text of the revised or amended model code or  
9 standard and determine whether the amended or revised provisions  
10 of the model code are essential to carry out the intent and purpose  
11 of this act as viewed in contrast to the corresponding provisions of  
12 the subcode then currently in effect.

13 (2) In the event that the commissioner, pursuant to paragraph (1)  
14 of this subsection, determines that any amended or revised  
15 provision of a model code is essential to carry out the intent and  
16 purpose of this act as viewed in contrast to any corresponding  
17 provision of the subcode then currently in effect, the commissioner  
18 may then adopt that provision of the amended or revised model  
19 code.

20 (3) The commissioner, in consultation with the code advisory  
21 board, shall have the authority to review any model code or  
22 standard currently in effect as a subcode of the State Uniform  
23 Construction Code and compare it with previously adopted editions  
24 of the same model code or standard in order to determine if the  
25 subcode currently in effect is at least as consistent with the intent  
26 and purpose of this act as were previously adopted editions of the  
27 same model code or standard.

28 (4) In the event that the commissioner, after consultation with  
29 the code advisory board, determines pursuant to this subsection that  
30 a provision of a model code or standard currently in effect as a  
31 subcode of the State Uniform Construction Code is less consistent  
32 with the intent and purpose of this act than was the corresponding  
33 provision of a previously adopted edition of the same model code or  
34 standard, the commissioner may delete the provision in effect and  
35 substitute in its place the corresponding provision of the previously  
36 adopted edition of the same model code or standard determined to  
37 be more consistent with the intent and purpose of this act.

38 (5) The commissioner shall be authorized to adopt a barrier free  
39 subcode or to supplement or revise any model code adopted  
40 hereunder, for the purpose of insuring that adequate and sufficient  
41 features are available in buildings or structures so as to make them  
42 accessible to and usable by the physically handicapped. Multi-  
43 family residential buildings with four or more dwelling units in a  
44 single structure shall be constructed in accordance with the barrier  
45 free subcode; for the purposes of this subsection the term "multi-  
46 family residential buildings with four or more dwelling units in a  
47 single structure" shall not include buildings constructed as

1 townhouses, which are single dwelling units with two or more  
2 stories of living space, exclusive of basement or attic, with most or  
3 all of the sleeping areas on one story and with most of the  
4 remaining habitable space, such as kitchen, living and dining areas,  
5 on another story, and with an independent entrance at or near grade  
6 level.

7 c. Any municipality through its construction official, and any  
8 State agency or political subdivision of the State may submit an  
9 application recommending to the commissioner that a State  
10 sponsored code change proposal be adopted. Such application shall  
11 contain such technical justification and shall be submitted in  
12 accordance with such rules of procedure as the commissioner may  
13 deem appropriate, except that whenever the State Board of  
14 Education shall determine that enhancements to the code are  
15 essential to the maintenance of a thorough and efficient system of  
16 education, the enhancements shall be made part of the code;  
17 provided that the amendments do not result in standards that fall  
18 below the adopted subcodes. The Commissioner of the Department  
19 of Education shall consult with the Commissioner of the  
20 Department of Community Affairs prior to publishing the intent of  
21 the State Board to adopt any amendments to the Uniform  
22 Construction Code. Upon adoption of any amendments by the State  
23 Board of Education they shall be transmitted forthwith to the  
24 Commissioner of the Department of Community Affairs who shall  
25 publish and incorporate the amendments as part of the Uniform  
26 Construction Code and the amendments shall be enforceable as if  
27 they had been adopted by the commissioner.

28 At least 45 days prior to the final date for the submission of  
29 amendments or code change proposals to the National Model Code  
30 Adoption Agency, the code of which has been adopted as a subcode  
31 under this act, the commissioner shall hold a public hearing in  
32 accordance with the "Administrative Procedure Act," P.L.1968,  
33 c.410 (C.52:14B-1 et seq.), at which testimony on any application  
34 recommending a State sponsored code change proposal will be  
35 heard.

36 The commissioner shall maintain a file of such applications,  
37 which shall be made available to the public upon request and upon  
38 payment of a fee to cover the cost of copying and mailing.

39 After public hearing, the code advisory board shall review any  
40 such applications and testimony and shall within 20 days of such  
41 hearing present its own recommendations to the commissioner.

42 The commissioner may adopt, reject or return such  
43 recommendations to the code advisory board for further  
44 deliberation. If adopted, any such proposal shall be presented to the  
45 subsequent meeting of the National Model Code Agency by the  
46 commissioner or by persons designated by the commissioner as a  
47 State sponsored code change proposal. Nothing herein, however,

1 shall limit the right of any municipality, the department, or any  
2 other person from presenting amendments to the National Model  
3 Code Agency on its own initiative.

4 The commissioner may adopt further rules and regulations  
5 pursuant to this subsection and may modify the procedures herein  
6 described when a model code change hearing has been scheduled so  
7 as not to permit adequate time to meet such procedures.

8 d. (Deleted by amendment, P.L.1983, c.496.)  
9 (cf: P.L.2003, c.72, s.2)

10  
11 3. Section 9 of P.L.1977, c.146 (C.52:27F-11) is amended to  
12 read as follows:

13 9. The **【commissioner】** Board of Public Utilities shall **【,** on  
14 behalf of the department**】** through the Division of Energy Planning  
15 and Conservation:

16 a. **【Manage the department as】** Be the central repository within  
17 the State Government for the collection of energy information;

18 b. Collect and analyze data relating to present and future  
19 demands and resources for all forms of energy;

20 c. Have authority to require all persons, firms, corporations or  
21 other entities engaged in the production, processing, distribution,  
22 transmission or storage of energy in any form or in the use of steam  
23 in quantities greater than 50,000 pounds per hour to submit reports  
24 setting forth such information as shall be required to carry out the  
25 provisions of this act;

26 d. Have authority to require any person to submit information  
27 necessary for determining the impact of any construction or  
28 development project on the energy and fuel resources of this State;

29 e. Charge other State Government departments and agencies  
30 involved in energy-related activities **【,** including the Board of  
31 Public Utilities,**】** with specific information gathering goals and  
32 require that said goals be fulfilled;

33 f. Establish an energy information system which will provide  
34 all data necessary to insure a fair and equitable distribution of  
35 available energy, to permit a more efficient and effective use of  
36 available energy, and to provide the basis for long-term planning  
37 related to energy needs;

38 g. Design, implement, and enforce a program for the  
39 conservation of energy in commercial, industrial, and residential  
40 facilities, which program shall provide for the evaluation of energy  
41 systems as they relate to lighting, heating, refrigeration, air-  
42 conditioning, building design and operation, elective cogeneration  
43 and process steam production associated with cogeneration  
44 facilities, and appliance manufacturing and operation; and may  
45 include, but shall not be limited to, the requiring of an annual  
46 inspection and adjustment, if necessary, of oil-fired heating systems  
47 in residential, commercial and industrial buildings so as to bring



1 such systems into conformity with efficiency standards therefor  
2 prescribed by **the department** law; the setting of lighting  
3 efficiency standards for public buildings; the establishment of  
4 mandatory thermostat settings and the use of seven-day, day-night  
5 thermostats in public buildings; the development of standards for  
6 efficient boiler operation; consider the establishment of  
7 cogeneration facilities to simultaneously produce electricity and  
8 steam to conserve fuel; and, the preparation of a plan to insure the  
9 phased retrofitting of existing gas furnaces with electric ignition  
10 systems and to require that new gas ranges and dryers be equipped  
11 with electric ignition systems, and new gas furnaces with electric  
12 ignition systems and automatic vent-dampers. The program for the  
13 conservation of energy in new home construction shall include a  
14 provision for down payment assistance to purchasers of new homes  
15 meeting the enhanced energy subcode requirements adopted  
16 pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123). The  
17 down payment assistance portion of the program shall be designed  
18 in consultation with the Department of Community Affairs and the  
19 New Jersey Housing and Mortgage Finance Agency. The assistance  
20 shall be limited to those purchasers whose household income does  
21 not exceed 110 percent of county median income, as adjusted for  
22 household size. The total down payment to be made by the  
23 purchaser, including the amount of the down payment assistance,  
24 shall not exceed 20 percent of the purchase price of the new home.  
25 The down payment assistance shall not exceed the lesser of (1) the  
26 additional cost of construction required in order to make a building,  
27 which otherwise would conform to the '[current]' edition of the  
28 International Energy Code 'in effect at the time of the offering of  
29 down payment assistance' , also conform to the enhanced energy  
30 conservation construction requirements established by the  
31 Commissioner of Community Affairs pursuant to section 5 of  
32 P.L.1975, c.217 (C.52:27D-123) or (2) the additional down payment  
33 required in order to qualify the purchaser or purchasers for  
34 mortgage financing without the requirement of private mortgage  
35 insurance;

36 h. Conduct and supervise a State-wide program of education  
37 including the preparation and distribution of information relating to  
38 energy conservation;

39 i. Monitor prices charged for energy within the State, evaluate  
40 policies governing the establishment of rates and prices for energy,  
41 and make recommendations for necessary changes in such policies  
42 to other concerned Federal and State agencies, **including the Board**  
43 **of Public Utilities,** and to the Legislature;

44 j. Have authority to conduct and supervise research projects  
45 and programs for the purpose of increasing the efficiency of energy  
46 use, developing new sources of energy, evaluating energy

1 conservation measures, and meeting other goals consistent with the  
2 intent of this act;

3 k. Have authority to distribute and expend funds made  
4 available for the purpose of research projects and programs;

5 l. Have authority to enter into interstate compacts in order to  
6 carry out energy research and planning with other states or the  
7 Federal Government where appropriate;

8 m. Have authority to apply for, accept, and expand grants-in-aid  
9 and assistance from private and public sources for energy programs;  
10 notwithstanding any other law to the contrary, the **[commissioner]**  
11 President of the Board of Public Utilities is designated as the State  
12 official to apply for, receive, and expend Federal and other funding  
13 made available to the State for the purposes of this act;

14 n. Require the annual submission of energy utilization reports  
15 and conservation plans by State Government departments and  
16 agencies, **[including the Board of Public Utilities,]** evaluate said  
17 plans and the progress of the departments and agencies in meeting  
18 these plans, and order changes in the plans or improvement in  
19 meeting the goals of the plans;

20 o. Carry out all duties given **[him]** to the Board of Public  
21 Utilities under other sections of this act or any other acts;

22 p. Have authority to conduct hearings and investigations in  
23 order to carry out the purposes of this act and to issue **[subpenas]**  
24 subpoenas in furtherance of such power. **[Said]** Such power to  
25 conduct investigations shall include, but not be limited to, the  
26 authority to enter without delay and at reasonable times the  
27 premises of any energy industry in order to obtain or verify any  
28 information necessary for carrying out the purposes of this act;

29 q. Have authority to adopt, amend or repeal, pursuant to the  
30 "Administrative Procedure Act" (C.52:14B-1 et seq.) such rules and  
31 regulations necessary and proper to carry out the purposes of this  
32 act;

33 r. Administer such Federal energy regulations as are applicable  
34 to the states, including, but not limited to, the mandatory petroleum  
35 allocation regulations and State energy conservation plans.

36 s. Have authority to sue and be sued;

37 t. Have authority to acquire by purchase, grant, contract or  
38 eminent domain title to real property for the purpose of  
39 demonstrating facilities which improve the efficiency of energy use,  
40 conserve energy or generate energy in new and efficient ways;

41 u. Have authority to construct and operate, on an experimental  
42 or demonstration basis, facilities which improve the efficiency of  
43 energy use, conserve energy or generate power in new and efficient  
44 ways;

45 v. Have authority to contract with any other public agency or  
46 corporation incorporated under the laws of this or any other state  
47 for the performance of any function under this act;

1 w. Determine the effect of energy and fuel shortages upon  
2 consumers, and formulate proposals designed to encourage the  
3 lowest possible cost of energy and fuels consumed in the State  
4 consistent with the conservation and efficient use of energy;

5 x. Keep complete and accurate minutes of all hearings held  
6 before the **【commissioner】** Board of Public Utilities or any member  
7 of the Division of Energy Planning and Conservation pursuant to  
8 the provisions of this act. All such minutes shall be retained in a  
9 permanent record and shall be available for public inspection at all  
10 times during the office hours of the **【department】** board; and

11 y. '【At intervals of every three years, submit】 Provide  
12 consultation to an institution of higher education as pursuant to  
13 subsection b. of section 5 of P.L.1975, c.217 (C.52:27D-123), in  
14 order to assist the institution with the preparation of<sup>1</sup> a report to the  
15 Department of Community Affairs on the projected cost of energy,  
16 to be used by that department when analyzing the cost and payback  
17 of energy conservation measures and requirements being considered  
18 for inclusion in the energy subcode of the State Uniform  
19 Construction Code.

20 (cf: P.L.1978, c.80, s.2)

21

22 4. This act shall take effect immediately.

# **SENATE, No. 702**

## **STATE OF NEW JERSEY**

### **213th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Co-Sponsored by:**

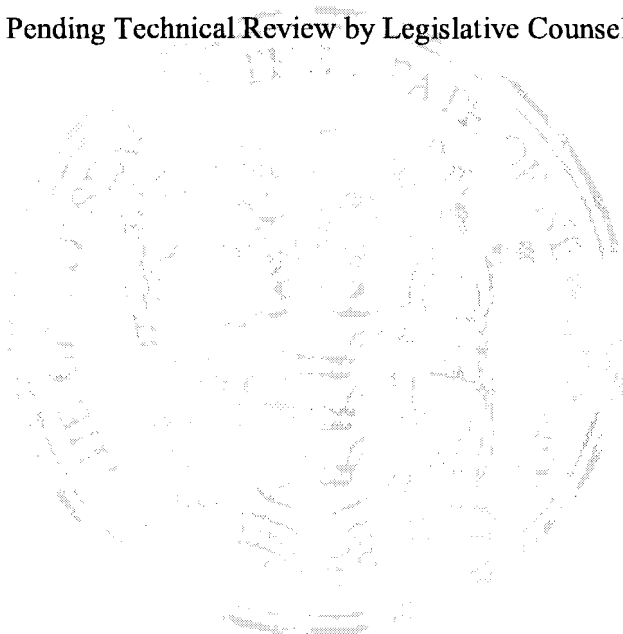
**Senators Buono, Weinberg and Turner**

**SYNOPSIS**

Authorizes enhancement of State Uniform Construction Code's energy subcode based on anticipated energy savings; provides down payment assistance to certain purchasers of homes meeting enhanced energy subcode requirements.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



S702 B. SMITH

2

1 AN ACT promoting energy efficiency in buildings and amending  
2 and supplementing P.L.1975, c.217 and amending P.L.1977,  
3 c.146.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) The Legislature hereby finds and declares:

9 a. It is the public policy of this State to encourage and facilitate  
10 the construction of energy-efficient buildings which are designed  
11 and built to reduce overall energy demand.

12 b. While energy-efficient buildings may cost more to construct,  
13 the payback period to recoup the added investment is only a few  
14 years.

15 c. Energy savings can be most fully realized when incorporated  
16 into new construction from the beginning.

17 d. It is therefore necessary and appropriate that the  
18 Commissioner of Community Affairs, in consultation with the  
19 Board of Public Utilities, adopt energy-efficient building codes that  
20 may exceed the requirements of national model codes.

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22 2. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to  
23 read as follows:

24 5. a. The commissioner shall after public hearing pursuant to  
25 section 4 of the "Administrative Procedure Act," P.L.1968, c.410  
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27 purpose of regulating the structural design, construction,  
28 maintenance and use of buildings or structures to be erected and  
29 alteration, renovation, rehabilitation, repair, maintenance, removal  
30 or demolition of buildings or structures already erected. Prior to the  
31 adoption of said code, the commissioner shall consult with the code  
32 advisory board and other departments, divisions, bureaus, boards,  
33 councils or other agencies of State Government heretofore  
34 authorized to establish or administer construction regulations.

35 Such prior consultations with departments, divisions, bureaus,  
36 boards, councils, or other agencies of State Government shall  
37 include but not be limited to consultation with the Commissioner of  
38 Health and Senior Services and the Public Health Council prior to  
39 adoption of a plumbing subcode pursuant to paragraph b. of this  
40 section. Said code shall include any code, rule or regulation  
41 incorporated therein by reference.

42 b. The code shall be divided into subcodes which may be  
43 adopted individually by the commissioner as he may from time to

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 time consider appropriate. These subcodes shall include but not be  
2 limited to a building code, a plumbing code, an electrical code, an  
3 energy code, a fire prevention code, a manufactured or mobile home  
4 code and mechanical code.

5 These subcodes, except for the energy subcode, shall be  
6 adoptions of the model codes of the Building Officials and Code  
7 Administrators International, Inc., the National Electrical Code, and  
8 the National Standard Plumbing Code, provided that for good  
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10 standard of some other nationally recognized organization upon a  
11 finding that such model code or standard promotes the purposes of  
12 this act. The initial adoption of a model code or standard as a  
13 subcode shall constitute adoption of subsequent edition year  
14 publications of the model code or standard organization, except as  
15 provided for in paragraphs (1) through (4) of this subsection.  
16 Adoption of publications shall not occur more frequently than once  
17 every three years; provided, however, that a revision or amendment  
18 may be adopted at any time in the event that the commissioner finds  
19 that there exists an imminent peril to the public health, safety or  
20 welfare.

21 The energy subcode may be based upon the model codes cited  
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23 commissioner at any time without regard to intervals between the  
24 initial adoption of the energy subcode and subsequent year revisions  
25 of that subcode. In amending or supplementing the energy subcode,  
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28 pursuant to subsection y. of section 9 of P.L.1977, c.146 (C.52:27F-  
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35 shall be similarly proportionate to the additional costs of energy  
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38 of a model code or standard in effect as a subcode as of July 1, 1995  
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46 of the model code are essential to carry out the intent and purpose

S702 B. SMITH

1 of this act as viewed in contrast to the corresponding provisions of  
2 the subcode then currently in effect.

3 (2) In the event that the commissioner, pursuant to paragraph (1)  
4 of this subsection, determines that any amended or revised  
5 provision of a model code is essential to carry out the intent and  
6 purpose of this act as viewed in contrast to any corresponding  
7 provision of the subcode then currently in effect, the commissioner  
8 may then adopt that provision of the amended or revised model  
9 code.

10 (3) The commissioner, in consultation with the code advisory  
11 board, shall have the authority to review any model code or  
12 standard currently in effect as a subcode of the State Uniform  
13 Construction Code and compare it with previously adopted editions  
14 of the same model code or standard in order to determine if the  
15 subcode currently in effect is at least as consistent with the intent  
16 and purpose of this act as were previously adopted editions of the  
17 same model code or standard.

18 (4) In the event that the commissioner, after consultation with  
19 the code advisory board, determines pursuant to this subsection that  
20 a provision of a model code or standard currently in effect as a  
21 subcode of the State Uniform Construction Code is less consistent  
22 with the intent and purpose of this act than was the corresponding  
23 provision of a previously adopted edition of the same model code or  
24 standard, the commissioner may delete the provision in effect and  
25 substitute in its place the corresponding provision of the previously  
26 adopted edition of the same model code or standard determined to  
27 be more consistent with the intent and purpose of this act.

28 (5) The commissioner shall be authorized to adopt a barrier free  
29 subcode or to supplement or revise any model code adopted  
30 hereunder, for the purpose of insuring that adequate and sufficient  
31 features are available in buildings or structures so as to make them  
32 accessible to and usable by the physically handicapped. Multi-  
33 family residential buildings with four or more dwelling units in a  
34 single structure shall be constructed in accordance with the barrier  
35 free subcode; for the purposes of this subsection the term "multi-  
36 family residential buildings with four or more dwelling units in a  
37 single structure" shall not include buildings constructed as  
38 townhouses, which are single dwelling units with two or more  
39 stories of living space, exclusive of basement or attic, with most or  
40 all of the sleeping areas on one story and with most of the  
41 remaining habitable space, such as kitchen, living and dining areas,  
42 on another story, and with an independent entrance at or near grade  
43 level.

44 c. Any municipality through its construction official, and any  
45 State agency or political subdivision of the State may submit an  
46 application recommending to the commissioner that a State  
47 sponsored code change proposal be adopted. Such application shall

1 contain such technical justification and shall be submitted in  
2 accordance with such rules of procedure as the commissioner may  
3 deem appropriate, except that whenever the State Board of  
4 Education shall determine that enhancements to the code are  
5 essential to the maintenance of a thorough and efficient system of  
6 education, the enhancements shall be made part of the code;  
7 provided that the amendments do not result in standards that fall  
8 below the adopted subcodes. The Commissioner of the Department  
9 of Education shall consult with the Commissioner of the  
10 Department of Community Affairs prior to publishing the intent of  
11 the State Board to adopt any amendments to the Uniform  
12 Construction Code. Upon adoption of any amendments by the State  
13 Board of Education they shall be transmitted forthwith to the  
14 Commissioner of the Department of Community Affairs who shall  
15 publish and incorporate the amendments as part of the Uniform  
16 Construction Code and the amendments shall be enforceable as if  
17 they had been adopted by the commissioner.

18 At least 45 days prior to the final date for the submission of  
19 amendments or code change proposals to the National Model Code  
20 Adoption Agency, the code of which has been adopted as a subcode  
21 under this act, the commissioner shall hold a public hearing in  
22 accordance with the "Administrative Procedure Act," P.L.1968,  
23 c.410 (C.52:14B-1 et seq.), at which testimony on any application  
24 recommending a State sponsored code change proposal will be  
25 heard.

26 The commissioner shall maintain a file of such applications,  
27 which shall be made available to the public upon request and upon  
28 payment of a fee to cover the cost of copying and mailing.

29 After public hearing, the code advisory board shall review any  
30 such applications and testimony and shall within 20 days of such  
31 hearing present its own recommendations to the commissioner.

32 The commissioner may adopt, reject or return such  
33 recommendations to the code advisory board for further  
34 deliberation. If adopted, any such proposal shall be presented to the  
35 subsequent meeting of the National Model Code Agency by the  
36 commissioner or by persons designated by the commissioner as a  
37 State sponsored code change proposal. Nothing herein, however,  
38 shall limit the right of any municipality, the department, or any  
39 other person from presenting amendments to the National Model  
40 Code Agency on its own initiative.

41 The commissioner may adopt further rules and regulations  
42 pursuant to this subsection and may modify the procedures herein  
43 described when a model code change hearing has been scheduled so  
44 as not to permit adequate time to meet such procedures.

45 d. (Deleted by amendment, P.L.1983, c.496.)

46 (cf: P.L.2003, c.72, s.2)



1       3. Section 9 of P.L.1977, c.146 (C.52:27F-11) is amended to  
2 read as follows:

3       9. The **【commissioner】** Board of Public Utilities shall **【,** on  
4 behalf of the department**】** through the Division of Energy Planning  
5 and Conservation:

6       a. **【Manage the department as】** Be the central repository  
7 within the State Government for the collection of energy  
8 information;

9       b. Collect and analyze data relating to present and future  
10 demands and resources for all forms of energy;

11       c. Have authority to require all persons, firms, corporations or  
12 other entities engaged in the production, processing, distribution,  
13 transmission or storage of energy in any form or in the use of steam  
14 in quantities greater than 50,000 pounds per hour to submit reports  
15 setting forth such information as shall be required to carry out the  
16 provisions of this act;

17       d. Have authority to require any person to submit information  
18 necessary for determining the impact of any construction or  
19 development project on the energy and fuel resources of this State;

20       e. Charge other State Government departments and agencies  
21 involved in energy-related activities **【,** including the Board of  
22 Public Utilities,**】** with specific information gathering goals and  
23 require that said goals be fulfilled;

24       f. Establish an energy information system which will provide  
25 all data necessary to insure a fair and equitable distribution of  
26 available energy, to permit a more efficient and effective use of  
27 available energy, and to provide the basis for long-term planning  
28 related to energy needs;

29       g. Design, implement, and enforce a program for the  
30 conservation of energy in commercial, industrial, and residential  
31 facilities, which program shall provide for the evaluation of energy  
32 systems as they relate to lighting, heating, refrigeration, air-  
33 conditioning, building design and operation, elective cogeneration  
34 and process steam production associated with cogeneration  
35 facilities, and appliance manufacturing and operation; and may  
36 include, but shall not be limited to, the requiring of an annual  
37 inspection and adjustment, if necessary, of oil-fired heating systems  
38 in residential, commercial and industrial buildings so as to bring  
39 such systems into conformity with efficiency standards therefor  
40 prescribed by **【the department】** law; the setting of lighting  
41 efficiency standards for public buildings; the establishment of  
42 mandatory thermostat settings and the use of seven-day, day-night  
43 thermostats in public buildings; the development of standards for  
44 efficient boiler operation; consider the establishment of  
45 cogeneration facilities to simultaneously produce electricity and  
46 steam to conserve fuel; and, the preparation of a plan to insure the  
47 phased retrofitting of existing gas furnaces with electric ignition

1 systems and to require that new gas ranges and dryers be equipped  
2 with electric ignition systems, and new gas furnaces with electric  
3 ignition systems and automatic vent-dampers. The program for the  
4 conservation of energy in new home construction shall include a  
5 provision for down payment assistance to purchasers of new homes  
6 meeting the enhanced energy subcode requirements adopted  
7 pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123). The  
8 down payment assistance portion of the program shall be designed  
9 in consultation with the Department of Community Affairs and the  
10 New Jersey Housing and Mortgage Finance Agency. The assistance  
11 shall be limited to those purchasers whose household income does  
12 not exceed 110 percent of county median income, as adjusted for  
13 household size. The total down payment to be made by the  
14 purchaser, including the amount of the down payment assistance,  
15 shall not exceed 20 percent of the purchase price of the new home.  
16 The down payment assistance shall not exceed the lesser of (1) the  
17 additional cost of construction required in order to make a building,  
18 which otherwise would conform to the current edition of the  
19 International Energy Code, also conform to the enhanced energy  
20 conservation construction requirements established by the  
21 Commissioner of Community Affairs pursuant to section 5 of  
22 P.L.1975, c.217 (C.52:27D-123) or (2) the additional down payment  
23 required in order to qualify the purchaser or purchasers for  
24 mortgage financing without the requirement of private mortgage  
25 insurance;

26 h. Conduct and supervise a State-wide program of education  
27 including the preparation and distribution of information relating to  
28 energy conservation;

29 i. Monitor prices charged for energy within the State, evaluate  
30 policies governing the establishment of rates and prices for energy,  
31 and make recommendations for necessary changes in such policies  
32 to other concerned Federal and State agencies, [including the Board  
33 of Public Utilities,] and to the Legislature;

34 j. Have authority to conduct and supervise research projects  
35 and programs for the purpose of increasing the efficiency of energy  
36 use, developing new sources of energy, evaluating energy  
37 conservation measures, and meeting other goals consistent with the  
38 intent of this act;

39 k. Have authority to distribute and expend funds made  
40 available for the purpose of research projects and programs;

41 l. Have authority to enter into interstate compacts in order to  
42 carry out energy research and planning with other states or the  
43 Federal Government where appropriate;

44 m. Have authority to apply for, accept, and expand grants-in-aid  
45 and assistance from private and public sources for energy programs;  
46 notwithstanding any other law to the contrary, the [commissioner]  
47 President of the Board of Public Utilities is designated as the State

S702 B. SMITH

8

1 official to apply for, receive, and expend Federal and other funding  
2 made available to the State for the purposes of this act;

3 n. Require the annual submission of energy utilization reports  
4 and conservation plans by State Government departments and  
5 agencies, **[including the Board of Public Utilities,]** evaluate said  
6 plans and the progress of the departments and agencies in meeting  
7 these plans, and order changes in the plans or improvement in  
8 meeting the goals of the plans;

9 o. Carry out all duties given **[him]** to the Board of Public  
10 Utilities under other sections of this act or any other acts;

11 p. Have authority to conduct hearings and investigations in  
12 order to carry out the purposes of this act and to issue **[subpenas]**  
13 subpoenas in furtherance of such power. **[Said]** Such power to  
14 conduct investigations shall include, but not be limited to, the  
15 authority to enter without delay and at reasonable times the  
16 premises of any energy industry in order to obtain or verify any  
17 information necessary for carrying out the purposes of this act;

18 q. Have authority to adopt, amend or repeal, pursuant to the  
19 "Administrative Procedure Act" (C.52:14B-1 et seq.) such rules and  
20 regulations necessary and proper to carry out the purposes of this  
21 act;

22 r. Administer such Federal energy regulations as are applicable  
23 to the states, including, but not limited to, the mandatory petroleum  
24 allocation regulations and State energy conservation plans.

25 s. Have authority to sue and be sued;

26 t. Have authority to acquire by purchase, grant, contract or  
27 eminent domain title to real property for the purpose of  
28 demonstrating facilities which improve the efficiency of energy use,  
29 conserve energy or generate energy in new and efficient ways;

30 u. Have authority to construct and operate, on an experimental  
31 or demonstration basis, facilities which improve the efficiency of  
32 energy use, conserve energy or generate power in new and efficient  
33 ways;

34 v. Have authority to contract with any other public agency or  
35 corporation incorporated under the laws of this or any other state  
36 for the performance of any function under this act;

37 w. Determine the effect of energy and fuel shortages upon  
38 consumers, and formulate proposals designed to encourage the  
39 lowest possible cost of energy and fuels consumed in the State  
40 consistent with the conservation and efficient use of energy;

41 x. Keep complete and accurate minutes of all hearings held  
42 before the **[commissioner]** Board of Public Utilities or any member  
43 of the Division of Energy Planning and Conservation pursuant to  
44 the provisions of this act. All such minutes shall be retained in a  
45 permanent record and shall be available for public inspection at all  
46 times during the office hours of the **[department]** board; and

1       y. At intervals of every three years, submit a report to the  
2 Department of Community Affairs on the projected cost of energy,  
3 to be used by that department when analyzing the cost and payback  
4 of energy conservation measures and requirements being considered  
5 for inclusion in the energy subcode of the State Uniform  
6 Construction Code.  
7 (cf: P.L.1978, c.80, s.2)

8

9           4. This act shall take effect immediately.

10

11

12           *Sponsor's*       STATEMENT

13

14           This bill would promote energy efficiency and conservation in  
15 buildings by authorizing the Commissioner of Community Affairs  
16 (“commissioner”) to amend the Uniform Construction Code’s  
17 energy subcode to establish enhanced energy-saving construction  
18 requirements, the added cost of which may reasonably be expected  
19 to be recovered through energy conservation over a period of not  
20 more than seven years. Such requirements are to include provisions  
21 to ensure that, in all parts of the State the anticipated energy savings  
22 shall be similarly proportionate to the additional costs of energy  
23 subcode compliance. The commissioner would be authorized to  
24 adopt only those enhanced requirements, the additional cost of  
25 which will be offset in less than seven years by a resulting reduction  
26 in energy consumption.

27           The energy subcode may be based upon the model codes  
28 required by law, but may be amended or supplemented by the  
29 commissioner at any time, in accordance with 10-year energy price  
30 projections provided at three year intervals by the Board of Public  
31 Utilities (“board”) between the initial adoption of that subcode and  
32 subsequent year revisions of the model subcode.

33           This bill requires the board, through its residential facilities  
34 energy conservation program, and in consultation with the  
35 Department of Community Affairs and the New Jersey Housing and  
36 Mortgage Finance Agency, to assist certain homebuyers by  
37 providing down payment funding assistance for the purchase of new  
38 homes which have increased costs that may be attributed to the  
39 enhanced energy conservation construction requirements.

# SENATE ECONOMIC GROWTH COMMITTEE

## STATEMENT TO

### **SENATE, No. 702**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 15, 2008

The Senate Economic Growth Committee reports favorably Senate Bill No. 702 with committee amendments.

This bill, as amended, would promote energy efficiency and conservation in buildings by authorizing the Commissioner of Community Affairs (“commissioner”) to amend the Uniform Construction Code’s energy subcode to establish enhanced energy-saving construction requirements, the added cost of each of which may reasonably be recovered through energy conservation over a period of not more than seven years. Such requirements are to include provisions to ensure that, in all parts of the State the anticipated energy savings shall be similarly proportionate to the additional costs of energy subcode compliance.

Currently, all construction subcodes under the State Uniform Construction Code are adopted based on the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, except that for good reasons, the commissioner may adopt as a subcode a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.).

Under the bill, the energy subcode may be based upon the model codes cited in the law, but may be amended or supplemented by the commissioner at any time without regard to intervals between the initial adoption of the energy subcode and subsequent year revisions of that subcode. In amending or supplementing the energy subcode, the commissioner shall rely upon 10-year energy price projections provided by an institution of higher education within one year following the effective date of the bill, and thereafter at three year intervals. In developing the energy price projections, the institution of higher education is to consult with the Board of Public Utilities (“board”).

This bill requires the board, through its residential facilities energy conservation program, and in consultation with the Department of Community Affairs and the New Jersey Housing and Mortgage

Finance Agency, to assist certain homebuyers by providing down payment funding assistance for the purchase of new homes which have increased costs that may be attributed to the enhanced energy conservation construction requirements.

The committee amended the bill to: 1) provide that an institution of higher education, in consultation with the board, provide the 10-year energy price projections to the commissioner instead of the board undertaking that responsibility itself; 2) clarify that the added cost of each of the enhanced energy conservation construction requirements be recovered through energy conservation over a period of not more than seven years; and 3) clarify that the edition of the International Energy Code in effect at the time of the offering of down payment assistance be a factor in the amount of such assistance.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 702**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 11, 2009

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 702 (1R), with committee amendments.

This bill, as amended by the committee, would promote energy efficiency and conservation in buildings by authorizing the Commissioner of Community Affairs (“commissioner”) to amend the Uniform Construction Code’s energy subcode to establish enhanced energy-saving construction requirements, the added cost of each of which may reasonably be recovered through energy conservation over a period of not more than seven years. Such requirements are to include provisions to ensure that, in all parts of the State, the anticipated energy savings shall be similarly proportionate to the additional costs of energy subcode compliance.

Currently, all construction subcodes under the State Uniform Construction Code are adopted based on the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, except that for good reasons, the commissioner may adopt as a subcode, a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.).

Under the amended bill, the International Energy Conservation Code would be added as one of the model code alternatives to be used as a basis of the energy subcode. The energy subcode may be amended or supplemented by the commissioner once before 2012 without regard to the statutory three-year minimum interval between the adoption of an energy subcode and the adoption of a revision of that subcode. In amending or supplementing the energy subcode, the commissioner shall rely upon 10-year energy price projections provided by an institution of higher education within one year following the effective date of the bill, and thereafter at three year intervals. In developing the energy price projections, the institution of

higher education is to consult with the Board of Public Utilities (“board”).

This bill requires the board, through its residential facilities energy conservation program, and in consultation with the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, to assist certain homebuyers by providing down payment funding assistance for the purchase of new homes which have increased costs that may be attributed to the enhanced energy conservation construction requirements.

COMMITTEE AMENDMENTS:

The committee amended the bill to: 1) add the International Energy Conservation Code as one of the alternative model codes that can be used as a basis for the energy subcode; 2) allow the energy subcode to be amended or supplemented by the commissioner once before 2012 without regard to statutory minimum intervals between the adoptions and revisions of the energy subcode; and 3) clarify in section 1 of the bill that the Commissioner of Community Affairs need not consult with an institution of higher education when adopting enhanced energy-efficient building codes.

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot estimate the cost of the bill because there is no information available to predict the manner in which the Board of Public Utilities will implement the bill’s down payment assistance program. The OLS notes that the bill’s down payment assistance program will only apply to purchasers of new homes that meet the enhanced energy subcode standards required to be adopted by the Commissioner of Community Affairs. Furthermore, assistance will be limited to those homebuyers whose income does not exceed 110 percent of the county median income, as adjusted for household size. The resale of a new home will not qualify the purchaser of that home for participation in the down payment assistance program. The OLS cannot estimate the number of houses that may be built in the future that would meet the enhanced energy subcode requirements to be adopted under this bill, or the number of these houses that may be purchased by an individual qualified to receive down payment assistance as provided for in the bill.



# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 702

## STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JUNE 30, 2009

### SUMMARY

- Synopsis:** Authorizes enhancement of State Uniform Construction Code's energy subcode based on anticipated energy savings; provides down payment assistance to certain purchasers of homes meeting enhanced energy subcode requirements.
- Type of Impact:** Increased cost to the General Fund.
- Agencies Affected:** Board of Public Utilities; Department of Community Affairs; New Jersey Housing and Mortgage Finance Agency

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
<b>State Cost</b>	Indeterminate recurring cost of providing down payment assistance to purchasers of new homes that meet the enhanced energy subcode requirements.		

- The Office of Legislative Services (OLS) cannot estimate the costs of this bill because OLS has no information available to predict the manner in which the Board of Public Utilities (BPU) will implement the bill's down payment assistance program for purchasers of new homes that meet the enhanced energy subcode requirements to be adopted by the Department of Community Affairs.
- This bill would promote energy efficiency and conservation in buildings by authorizing the Commissioner of Community Affairs to amend the Uniform Construction Code's energy subcode to establish enhanced energy-saving construction requirements, the added costs of which may be reasonably be expected to be recovered through energy conservation over a period of not more than seven years.
- The bill also requires the BPU, through its residential facilities conservation program, and in consultation with the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, to assist certain homebuyers by providing down payment funding

assistance for the purchase of new homes which have increased costs that may be attributed to the enhanced energy subcode requirements.

## **BILL DESCRIPTION**

As amended, Senate Bill No. 702 (2R) of 2008 would authorize the Commissioner of Community Affairs to amend the Uniform Construction Code's energy subcode to establish enhanced energy-saving construction requirements, the added costs of which may reasonably be recovered through energy conservation over period of not more than seven years. Such requirements are to include provisions to ensure that, in all parts of the State the anticipated energy savings shall be similarly proportionate to the additional costs of energy subcode compliance.

Currently, all construction subcodes under the State Uniform Construction Code are adopted based on the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, except that for good reasons, the commissioner may adopt as a subcode a model code or standard of some other nationally recognized organization upon a finding that such model code promotes the purposes of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

Under the bill, the International Energy Conservation Code would be added as one of the model code alternatives to be used as a basis of the energy subcode. The energy subcode may be amended or supplemented by the commissioner once before 2012 without regard to the statutory three-year minimum interval between the adoption of an energy subcode and the adoption of a revision of that subcode. In amending the subcode, the commissioner shall rely upon 10-year energy price projections provided by an institution of higher education within one year following the effective date of the bill, and thereafter at three year intervals.

The bill requires the board, through its residential facilities energy conservation program, and in consultation with the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency to assist certain homebuyers by providing down payment funding assistance for the purchase of new homes which have increased costs that may be attributed to the energy conservation construction requirements.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS cannot estimate the cost of this Senate Bill No. 702 (2R) because it has no information available to predict the manner in which the Board of Public Utilities will implement the bill's down payment assistance program for purchasers of new homes that meet the enhanced energy subcode requirements to be adopted by the Department of Community Affairs. The OLS notes that the bill's down payment assistance program will only apply to purchasers of new homes that meet the enhanced energy subcode standards to be adopted by the Commissioner of

Community Affairs. Furthermore, assistance will be limited to homebuyers whose income does not exceed 110 percent of the county median income, as adjusted for household size. The resale of a new home will not qualify the purchaser of that home for participation in the down payment assistance program. The OLS cannot estimate the number of houses that may be built in the future that would meet the enhanced energy subcode requirements to be adopted under this bill, and the number of these houses that may be purchased by an individual qualified to receive down payment assistance as provided for in the bill.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).

# **ASSEMBLY, No. 1629**

## **STATE OF NEW JERSEY**

### **213th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Assemblywoman LINDA STENDER**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

**Assemblywoman Handlin, Assemblyman Diegnan, Assemblywomen Greenstein, Vainieri Huttie, Assemblyman Vas, Assemblywoman Voss, Assemblyman Johnson, Assemblywoman Lampitt, Assemblymen Conaway, Connors and Brannick**

**SYNOPSIS**

Authorizes enhancement of State Uniform Construction Code's energy subcode based on anticipated energy savings; provides down payment assistance to certain purchasers of homes meeting enhanced energy subcode requirements.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel

A1629 MCKEON, CHIVUKULA

2

1 AN ACT promoting energy efficiency in buildings and amending  
2 and supplementing P.L.1975, c.217 and amending P.L.1977,  
3 c.146.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) The Legislature hereby finds and declares:  
9 a. It is the public policy of this State to encourage and facilitate  
10 the construction of energy-efficient buildings which are designed  
11 and built to reduce overall energy demand.  
12 b. While energy-efficient buildings may cost more to construct,  
13 the payback period to recoup the added investment is only a few  
14 years.  
15 c. Energy savings can be most fully realized when incorporated  
16 into new construction from the beginning.  
17 d. It is therefore necessary and appropriate that the  
18 Commissioner of Community Affairs, in consultation with the  
19 Board of Public Utilities, adopt energy-efficient building codes that  
20 may exceed the requirements of national model codes.

21  
22 2. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to  
23 read as follows:

24 5. a. The commissioner shall after public hearing pursuant to  
25 section 4 of the "Administrative Procedure Act," P.L.1968, c.410  
26 (C.52:14B-4) adopt a State Uniform Construction Code for  
27 the purpose of regulating the structural design, construction,  
28 maintenance and use of buildings or structures to be erected and  
29 alteration, renovation, rehabilitation, repair, maintenance, removal  
30 or demolition of buildings or structures already erected. Prior to the  
31 adoption of said code, the commissioner shall consult with the code  
32 advisory board and other departments, divisions, bureaus, boards,  
33 councils or other agencies of State Government heretofore  
34 authorized to establish or administer construction regulations.

35 Such prior consultations with departments, divisions, bureaus,  
36 boards, councils, or other agencies of State Government shall  
37 include but not be limited to consultation with the Commissioner of  
38 Health and Senior Services and the Public Health Council prior to  
39 adoption of a plumbing subcode pursuant to paragraph b. of this  
40 section. Said code shall include any code, rule or regulation  
41 incorporated therein by reference.

42 b. The code shall be divided into subcodes which may be  
43 adopted individually by the commissioner as he may from time to  
44 time consider appropriate. These subcodes shall include but not be  
45 limited to a building code, a plumbing code, an electrical code, an

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 energy code, a fire prevention code, a manufactured or mobile home  
2 code and mechanical code.

3 These subcodes shall be adoptions of the model codes of the  
4 Building Officials and Code Administrators International, Inc., the  
5 National Electrical Code, and the National Standard Plumbing  
6 Code, provided that for good reasons, the commissioner may adopt  
7 as a subcode a model code or standard of some other nationally  
8 recognized organization upon a finding that such model code or  
9 standard promotes the purposes of this act. The initial adoption of a  
10 model code or standard as a subcode shall constitute adoption of  
11 subsequent edition year publications of the model code or standard  
12 organization, except as provided for in paragraphs (1) through (4)  
13 of this subsection. Adoption of publications shall not occur more  
14 frequently than once every three years; provided, however, that a  
15 revision or amendment may be adopted at any time in the event that  
16 the commissioner finds that there exists an imminent peril to the  
17 public health, safety or welfare.

18 The energy subcode may be based upon the model codes cited  
19 under this subsection; provided, however, that an amended energy  
20 subcode based upon 10-year energy projections provided by the  
21 Board of Public Utilities shall be adopted within six months after  
22 the date of enactment of P.L. , c. (C. ) (pending before the  
23 Legislature as this bill), and it shall not be necessary that there be a  
24 three-year interval between such initial adoption and the adoption  
25 of the next edition of that subcode. Thereafter, in amending or  
26 supplementing the energy subcode, the commissioner shall rely  
27 upon 10-year energy price projections provided by the Board of  
28 Public Utilities at three year intervals pursuant to subsection y. of  
29 section 9 of P.L.1977, c.146 (C.52:27F-11). The commissioner,  
30 when amending the energy subcode to establish enhanced energy  
31 conservation construction requirements, shall ensure that the added  
32 cost of construction may reasonably be expected to be recovered  
33 through energy conservation over a period of not more than seven  
34 years. Such requirements shall include provisions to ensure that, in  
35 all parts of the State, the anticipated energy savings shall be  
36 similarly proportionate to the additional costs of energy subcode  
37 compliance.

38 (1) Except as otherwise provided in this subsection, the edition  
39 of a model code or standard in effect as a subcode as of July 1, 1995  
40 shall continue in effect regardless of any publication of a  
41 subsequent edition of that model code or standard. Prior to  
42 establishing the effective date for any subsequent revision or  
43 amendment of any model code or standard adopted as a subcode,  
44 the commissioner shall review, in consultation with the code  
45 advisory board, the text of the revised or amended model code or  
46 standard and determine whether the amended or revised provisions  
47 of the model code are essential to carry out the intent and purpose

1 of this act as viewed in contrast to the corresponding provisions of  
2 the subcode then currently in effect.

3 (2) In the event that the commissioner, pursuant to paragraph (1)  
4 of this subsection, determines that any amended or revised  
5 provision of a model code is essential to carry out the intent and  
6 purpose of this act as viewed in contrast to any corresponding  
7 provision of the subcode then currently in effect, the commissioner  
8 may then adopt that provision of the amended or revised model  
9 code.

10 (3) The commissioner, in consultation with the code advisory  
11 board, shall have the authority to review any model code or  
12 standard currently in effect as a subcode of the State Uniform  
13 Construction Code and compare it with previously adopted editions  
14 of the same model code or standard in order to determine if the  
15 subcode currently in effect is at least as consistent with the intent  
16 and purpose of this act as were previously adopted editions of the  
17 same model code or standard.

18 (4) In the event that the commissioner, after consultation with  
19 the code advisory board, determines pursuant to this subsection that  
20 a provision of a model code or standard currently in effect as a  
21 subcode of the State Uniform Construction Code is less consistent  
22 with the intent and purpose of this act than was the corresponding  
23 provision of a previously adopted edition of the same model code or  
24 standard, the commissioner may delete the provision in effect and  
25 substitute in its place the corresponding provision of the previously  
26 adopted edition of the same model code or standard determined to  
27 be more consistent with the intent and purpose of this act.

28 (5) The commissioner shall be authorized to adopt a barrier free  
29 subcode or to supplement or revise any model code adopted  
30 hereunder, for the purpose of insuring that adequate and sufficient  
31 features are available in buildings or structures so as to make them  
32 accessible to and usable by the physically handicapped. Multi-  
33 family residential buildings with four or more dwelling units in a  
34 single structure shall be constructed in accordance with the barrier  
35 free subcode; for the purposes of this subsection the term "multi-  
36 family residential buildings with four or more dwelling units in a  
37 single structure" shall not include buildings constructed as  
38 townhouses, which are single dwelling units with two or more  
39 stories of living space, exclusive of basement or attic, with most or  
40 all of the sleeping areas on one story and with most of the  
41 remaining habitable space, such as kitchen, living and dining areas,  
42 on another story, and with an independent entrance at or near grade  
43 level.

44 c. Any municipality through its construction official, and any  
45 State agency or political subdivision of the State may submit an  
46 application recommending to the commissioner that a State  
47 sponsored code change proposal be adopted. Such application shall

1 contain such technical justification and shall be submitted in  
2 accordance with such rules of procedure as the commissioner may  
3 deem appropriate, except that whenever the State Board of  
4 Education shall determine that enhancements to the code are  
5 essential to the maintenance of a thorough and efficient system of  
6 education, the enhancements shall be made part of the code;  
7 provided that the amendments do not result in standards that fall  
8 below the adopted subcodes. The Commissioner of the Department  
9 of Education shall consult with the Commissioner of the  
10 Department of Community Affairs prior to publishing the intent of  
11 the State Board to adopt any amendments to the Uniform  
12 Construction Code. Upon adoption of any amendments by the State  
13 Board of Education they shall be transmitted forthwith to the  
14 Commissioner of the Department of Community Affairs who shall  
15 publish and incorporate the amendments as part of the Uniform  
16 Construction Code and the amendments shall be enforceable as if  
17 they had been adopted by the commissioner.

18 At least 45 days prior to the final date for the submission of  
19 amendments or code change proposals to the National Model Code  
20 Adoption Agency, the code of which has been adopted as a subcode  
21 under this act, the commissioner shall hold a public hearing in  
22 accordance with the "Administrative Procedure Act," P.L.1968,  
23 c.410 (C.52:14B-1 et seq.), at which testimony on any application  
24 recommending a State sponsored code change proposal will be  
25 heard.

26 The commissioner shall maintain a file of such applications,  
27 which shall be made available to the public upon request and upon  
28 payment of a fee to cover the cost of copying and mailing.

29 After public hearing, the code advisory board shall review any  
30 such applications and testimony and shall within 20 days of such  
31 hearing present its own recommendations to the commissioner.

32 The commissioner may adopt, reject or return such  
33 recommendations to the code advisory board for further  
34 deliberation. If adopted, any such proposal shall be presented to the  
35 subsequent meeting of the National Model Code Agency by the  
36 commissioner or by persons designated by the commissioner as a  
37 State sponsored code change proposal. Nothing herein, however,  
38 shall limit the right of any municipality, the department, or any  
39 other person from presenting amendments to the National Model  
40 Code Agency on its own initiative.

41 The commissioner may adopt further rules and regulations  
42 pursuant to this subsection and may modify the procedures herein  
43 described when a model code change hearing has been scheduled so  
44 as not to permit adequate time to meet such procedures.

45 d. (Deleted by amendment, P.L.1983, c.496.)

46 (cf: P.L.2003, c.72, s.2)



A1629 MCKEON, CHIVUKULA

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1       3. Section 9 of P.L.1977, c.146 (C.52:27F-11) is amended to  
2 read as follows:

3       9. The **【commissioner】** Board of Public Utilities shall **【,** on  
4 behalf of the department**】** through the Division of Energy Planning  
5 and Conservation:

6       a. **【Manage the department as】** Be the central repository  
7 within the State Government for the collection of energy  
8 information;

9       b. Collect and analyze data relating to present and future  
10 demands and resources for all forms of energy;

11       c. Have authority to require all persons, firms, corporations or  
12 other entities engaged in the production, processing, distribution,  
13 transmission or storage of energy in any form or in the use of steam  
14 in quantities greater than 50,000 pounds per hour to submit reports  
15 setting forth such information as shall be required to carry out the  
16 provisions of this act;

17       d. Have authority to require any person to submit information  
18 necessary for determining the impact of any construction or  
19 development project on the energy and fuel resources of this State;

20       e. Charge other State Government departments and agencies  
21 involved in energy-related activities **【,** including the Board of  
22 Public Utilities,**】** with specific information gathering goals and  
23 require that said goals be fulfilled;

24       f. Establish an energy information system which will provide  
25 all data necessary to insure a fair and equitable distribution of  
26 available energy, to permit a more efficient and effective use of  
27 available energy, and to provide the basis for long-term planning  
28 related to energy needs;

29       g. Design, implement, and enforce a program for the  
30 conservation of energy in commercial, industrial, and residential  
31 facilities, which program shall provide for the evaluation of energy  
32 systems as they relate to lighting, heating, refrigeration, air-  
33 conditioning, building design and operation, elective cogeneration  
34 and process steam production associated with cogeneration  
35 facilities, and appliance manufacturing and operation; and may  
36 include, but shall not be limited to, the requiring of an annual  
37 inspection and adjustment, if necessary, of oil-fired heating systems  
38 in residential, commercial and industrial buildings so as to bring  
39 such systems into conformity with efficiency standards therefor  
40 prescribed by **【the department】** law; the setting of lighting  
41 efficiency standards for public buildings; the establishment of  
42 mandatory thermostat settings and the use of seven-day, day-night  
43 thermostats in public buildings; the development of standards for  
44 efficient boiler operation; consider the establishment of  
45 cogeneration facilities to simultaneously produce electricity and  
46 steam to conserve fuel; and, the preparation of a plan to insure the  
47 phased retrofitting of existing gas furnaces with electric ignition

1 systems and to require that new gas ranges and dryers be equipped  
2 with electric ignition systems, and new gas furnaces with electric  
3 ignition systems and automatic vent-dampers. The program for the  
4 conservation of energy in new home construction shall include a  
5 provision for down payment assistance to purchasers of new homes  
6 meeting the enhanced energy subcode requirements adopted  
7 pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123). The  
8 down payment assistance portion of the program shall be designed  
9 in consultation with the Department of Community Affairs and the  
10 New Jersey Housing and Mortgage Finance Agency. The assistance  
11 shall be limited to those purchasers whose household income does  
12 not exceed 110 percent of county median income, as adjusted for  
13 household size. The total down payment to be made by the  
14 purchaser, including the amount of the down payment assistance,  
15 shall not exceed 20 percent of the purchase price of the new home.  
16 The down payment assistance shall not exceed the lesser of (1) the  
17 additional cost of construction required in order to make a building,  
18 which otherwise would conform to the current edition of the  
19 International Energy Code, also conform to the enhanced energy  
20 conservation construction requirements established by the  
21 Commissioner of Community Affairs pursuant to section 5 of  
22 P.L.1975, c.217 (C.52:27D-123) or (2) the additional down payment  
23 required in order to qualify the purchaser or purchasers for  
24 mortgage financing without the requirement of private mortgage  
25 insurance;

26 h. Conduct and supervise a State-wide program of education  
27 including the preparation and distribution of information relating to  
28 energy conservation;

29 i. Monitor prices charged for energy within the State, evaluate  
30 policies governing the establishment of rates and prices for energy,  
31 and make recommendations for necessary changes in such policies  
32 to other concerned Federal and State agencies, [including the Board  
33 of Public Utilities,] and to the Legislature;

34 j. Have authority to conduct and supervise research projects  
35 and programs for the purpose of increasing the efficiency of energy  
36 use, developing new sources of energy, evaluating energy  
37 conservation measures, and meeting other goals consistent with the  
38 intent of this act;

39 k. Have authority to distribute and expend funds made  
40 available for the purpose of research projects and programs;

41 l. Have authority to enter into interstate compacts in order to  
42 carry out energy research and planning with other states or the  
43 Federal Government where appropriate;

44 m. Have authority to apply for, accept, and expand grants-in-aid  
45 and assistance from private and public sources for energy programs;  
46 notwithstanding any other law to the contrary, the [commissioner]  
47 President of the Board of Public Utilities is designated as the State

1 official to apply for, receive, and expend Federal and other funding  
2 made available to the State for the purposes of this act;

3 n. Require the annual submission of energy utilization reports  
4 and conservation plans by State Government departments and  
5 agencies, **[including the Board of Public Utilities,]** evaluate said  
6 plans and the progress of the departments and agencies in meeting  
7 these plans, and order changes in the plans or improvement in  
8 meeting the goals of the plans;

9 o. Carry out all duties given **[him]** to the Board of Public  
10 Utilities under other sections of this act or any other acts;

11 p. Have authority to conduct hearings and investigations in  
12 order to carry out the purposes of this act and to issue **[subpenas]**  
13 subpoenas in furtherance of such power. **[Said]** Such power to  
14 conduct investigations shall include, but not be limited to, the  
15 authority to enter without delay and at reasonable times the  
16 premises of any energy industry in order to obtain or verify any  
17 information necessary for carrying out the purposes of this act;

18 q. Have authority to adopt, amend or repeal, pursuant to the  
19 "Administrative Procedure Act" (C. 52:14B-1 et seq.) such rules  
20 and regulations necessary and proper to carry out the purposes of  
21 this act;

22 r. Administer such Federal energy regulations as are applicable  
23 to the states, including, but not limited to, the mandatory petroleum  
24 allocation regulations and State energy conservation plans.

25 s. Have authority to sue and be sued;

26 t. Have authority to acquire by purchase, grant, contract or  
27 eminent domain title to real property for the purpose of  
28 demonstrating facilities which improve the efficiency of energy  
29 use, conserve energy or generate energy in new and efficient ways;

30 u. Have authority to construct and operate, on an experimental  
31 or demonstration basis, facilities which improve the efficiency of  
32 energy use, conserve energy or generate power in new and efficient  
33 ways;

34 v. Have authority to contract with any other public agency or  
35 corporation incorporated under the laws of this or any other state  
36 for the performance of any function under this act;

37 w. Determine the effect of energy and fuel shortages upon  
38 consumers, and formulate proposals designed to encourage the  
39 lowest possible cost of energy and fuels consumed in the State  
40 consistent with the conservation and efficient use of energy;

41 x. Keep complete and accurate minutes of all hearings held  
42 before the **[commissioner]** Board of Public Utilities or any member  
43 of the Division of Energy Planning and Conservation pursuant to  
44 the provisions of this act. All such minutes shall be retained in a  
45 permanent record and shall be available for public inspection at all  
46 times during the office hours of the **[department]** board; and

1       y. At intervals of every three years, submit a report to the  
2 Department of Community Affairs on the projected cost of energy,  
3 to be used by that department when analyzing the cost and payback  
4 of energy conservation measures and requirements being considered  
5 for inclusion in the energy subcode of the State Uniform  
6 Construction Code .

7 (cf: P.L.1978, c.80, s 2)

8  
9       4. This act shall take effect immediately.

10  
11                   *Sponsor's*       STATEMENT  
12  
13

14       The bill promotes energy efficiency and conservation in  
15 buildings by authorizing the Commissioner of Community Affairs  
16 to amend the Uniform Construction Code's energy subcode to  
17 establish enhanced energy-saving construction requirements, the  
18 added cost of which may reasonably be expected to be recovered  
19 through energy conservation over a period of not more than seven  
20 years. Such requirements are to include provisions to ensure that,  
21 in all parts of the State, the anticipated energy savings shall be  
22 similarly proportionate to the additional costs of energy subcode  
23 compliance. The commissioner is authorized to adopt only those  
24 enhanced requirements the additional cost of which will be offset in  
25 less than seven years by a resulting reduction in energy  
26 consumption. The bill provides that the energy subcode may be  
27 based upon the model codes required by law.

28       The bill requires the board, through its residential facilities  
29 energy conservation program, and in consultation with the  
30 Department of Community Affairs and the New Jersey Housing and  
31 Mortgage Finance Agency, to assist certain homebuyers by  
32 providing down payment funding assistance for the purchase of new  
33 homes which have increased costs that may be attributed to the  
34 enhanced energy conservation construction requirements. The bill  
35 provides that the total down payment to be made by the purchaser,  
36 including the amount of the down payment assistance, is not to  
37 exceed 20 percent of the purchase price of the new home.

38       The bill provides that an amended energy subcode based upon  
39 10-year energy projections provided by the board shall be adopted  
40 within six months after the date of enactment of the bill and  
41 clarifies that the commissioner, when amending the energy subcode,  
42 shall ensure that the added cost of the construction may be  
43 reasonably expected to be recovered through energy conservation  
44 over a period of not more than seven years.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1629**

**STATE OF NEW JERSEY**

DATED: JANUARY 28, 2008

The Assembly Environment and Solid Waste Committee favorably reports Assembly Bill No. 1629.

The bill promotes energy efficiency and conservation in buildings by authorizing the Commissioner of Community Affairs to amend the Uniform Construction Code's energy subcode to establish enhanced energy-saving construction requirements, the added cost of which may reasonably be expected to be recovered through energy conservation over a period of not more than seven years. Such requirements are to include provisions to ensure that, in all parts of the State, the anticipated energy savings must be similarly proportionate to the additional costs of energy subcode compliance. The commissioner is authorized to adopt only those enhanced requirements the additional cost of which will be offset in less than seven years by a resulting reduction in energy consumption. The bill provides that the energy subcode may be based upon the model codes required by law.

The bill requires the board, through its residential facilities energy conservation program, and in consultation with the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, to assist certain homebuyers by providing down payment funding assistance for the purchase of new homes which have increased costs that may be attributed to the enhanced energy conservation construction requirements. The bill provides that the total down payment to be made by the purchaser, including the amount of the down payment assistance, is not to exceed 20 percent of the purchase price of the new home.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1629

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 22, 2009

The Assembly Budget Committee reports favorably Assembly Bill No. 1629, with committee amendments.

The bill, as amended, promotes energy efficiency and conservation in buildings by authorizing the Commissioner of Community Affairs ("commissioner") to amend the Uniform Construction Code's energy subcode to establish enhanced energy-saving construction requirements, the added cost of each of which may reasonably be recovered through energy conservation over a period of not more than seven years. Such requirements are to include provisions to ensure that, in all parts of the State, the anticipated energy savings shall be similarly proportionate to the additional costs of energy subcode compliance.

Currently, all construction subcodes under the State Uniform Construction Code are adopted based on the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, except that for good reasons, the commissioner may adopt as a subcode, a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

Under the amended bill, the International Energy Conservation Code is added as one of the model code alternatives to be used as a basis of the energy subcode. The energy subcode may be amended or supplemented by the commissioner once before 2012 without regard to the statutory three-year minimum interval between the adoption of an energy subcode and the adoption of a revision of that subcode. In amending or supplementing the energy subcode, the commissioner shall rely upon 10-year energy price projections provided by an institution of higher education within one year following the effective date of the bill, and thereafter at three year intervals. In developing the energy price projections, the institution of higher education is to consult with the Board of Public Utilities ("board").

This bill requires the board, through its residential facilities energy conservation program, and in consultation with the Department of

Community Affairs and the New Jersey Housing and Mortgage Finance Agency, to assist certain homebuyers by providing down payment funding assistance for the purchase of new homes which have increased costs that may be attributed to the enhanced energy conservation construction requirements.

COMMITTEE AMENDMENTS:

The committee amended the bill to: 1) add the International Energy Conservation Code as one of the alternative model codes that can be used as a basis for the energy subcode; 2) allow the energy subcode to be amended or supplemented by the commissioner once before 2012 without regard to statutory minimum intervals between the adoptions and revisions of the energy subcode; 3) provide that an institution of higher education, in consultation with the board, shall provide the 10-year energy price projections to the commissioner instead of the board undertaking that responsibility itself; and 4) clarify that the added cost of each of the enhanced energy conservation construction requirements be recovered through energy conservation over a period of not more than seven years.

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot estimate the cost of the bill because there is no information available to predict the manner in which the Board of Public Utilities will implement the bill's down payment assistance program. The OLS notes that the bill's down payment assistance program will only apply to purchasers of new homes that meet the enhanced energy subcode standards required to be adopted by the Commissioner of Community Affairs. Furthermore, assistance will be limited to those homebuyers whose income does not exceed 110 percent of the county median income, as adjusted for household size. The resale of a new home will not qualify the purchaser of that home for participation in the down payment assistance program. The OLS cannot estimate the number of houses that may be built in the future that would meet the enhanced energy subcode requirements to be adopted under this bill, or the number of these houses that may be purchased by an individual qualified to receive down payment assistance as provided for in the bill.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 1629 STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JUNE 30, 2009

### SUMMARY

- Synopsis:** Authorizes enhancement of State Uniform Construction Code's energy subcode based on anticipated energy savings; provides down payment assistance to certain purchasers of homes meeting enhanced energy subcode requirements.
- Type of Impact:** Increased cost to the General Fund.
- Agencies Affected:** Board of Public Utilities, Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate recurring cost of providing down payment assistance to purchasers of new homes that meet the enhanced energy subcode requirements.		

- The Office of Legislative Services (OLS) cannot estimate the costs of this bill because OLS has no information available to predict the manner in which the Board of Public Utilities (BPU) will implement the bill's down payment assistance program for purchasers of new homes that meet the enhanced energy subcode requirements to be adopted by the Department of Community Affairs.
- This bill would promote energy efficiency and conservation in buildings by authorizing the Commissioner of Community Affairs to amend the Uniform Construction Code's energy subcode to establish enhanced energy-saving construction requirements, the added costs of which may be reasonably be expected to be recovered through energy conservation over a period of not more than seven years.
- The bill also requires the BPU, through its residential facilities conservation program, and in consultation with the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, to assist certain homebuyers by providing down payment funding



assistance for the purchase of new homes which have increased costs that may be attributed to the enhanced energy subcode requirements.

## **BILL DESCRIPTION**

As amended, Assembly Bill No. 1629 (1R) of 2008 would authorize the Commissioner of Community Affairs to amend the Uniform Construction Code's energy subcode to establish enhanced energy-saving construction requirements, the added costs of which may reasonably be recovered through energy conservation over period of not more than seven years. Such requirements are to include provisions to ensure that, in all parts of the State the anticipated energy savings shall be similarly proportionate to the additional costs of energy subcode compliance.

Currently, all construction subcodes under the State Uniform Construction Code are adopted based on the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, except that for good reasons, the commissioner may adopt as a subcode a model code or standard of some other nationally recognized organization upon a finding that such model code promotes the purposes of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

Under the bill, the International Energy Conservation Code would be added as one of the model code alternatives to be used as a basis of the energy subcode. The energy subcode may be amended or supplemented by the commissioner once before 2012 without regard to the statutory three-year minimum interval between the adoption of an energy subcode and the adoption of a revision of that subcode. In amending the subcode, the commissioner shall rely upon 10-year energy price projections provided by an institution of higher education within one year following the effective date of the bill, and thereafter at three year intervals.

The bill also requires the board, through its residential facilities energy conservation program, and in consultation with the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency to assist certain homebuyers by providing down payment funding assistance for the purchase of new homes which have increased costs that may be attributed to the energy conservation construction requirements.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS cannot estimate the cost of Assembly Bill No. 1629 (1R) because it has no information available to predict the manner in which the Board of Public Utilities will implement the bill's down payment assistance program for purchasers of new homes that meet the enhanced energy subcode requirements to be adopted by the Department of Community Affairs. The OLS notes that the bill's down payment assistance program will only apply to purchasers of new homes that meet the enhanced energy subcode standards to be adopted by the Commissioner of Community Affairs. Furthermore, assistance will be limited to homebuyers whose income does not exceed 110 percent of the county median income, as adjusted for household size. The resale

of a new home will not qualify the purchaser of that home for participation in the down payment assistance program. The OLS cannot estimate the number of houses that may be built in the future that would meet the enhanced energy subcode requirements to be adopted under this bill, and the number of these houses that may be purchased by an individual qualified to receive down payment assistance as provided for in the bill.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).