

## **97th General Assembly Legislative Update and Monthly Spotlight–February 15, 2012.**

By Sean Christopher Ziadeh, Attorney at Law and LEED AP

### Legislative Update:

Welcome to 2012, and so far, it appears this will be a busy year. So let's get started on bringing you up to date. Since our last Legislative Update of November 17, 2011, we have some noteworthy action to report to you beginning with the Illinois Senate with five bills recently introduced.

SB 3724, ENERGY EFFICIENT BUILDINGS sponsored by Sen. Don Harmon, is a key bill to watch. SB 3724 would amend the Energy Efficient Building Act (PA 096-0778 effective as of January 29th, 2010) which established the 2009 International Energy Conservation Code ("Code") in Illinois. The most significant aspect of the amendment would relieve the Capital Development Board from adopting the most recent published version of the International Energy Conservation Code as the minimum and maximum requirements for residential buildings, and merely requires the Board to review and consider adopting the latest published edition of the Code. Currently SB 3724 has been referred to Assignments. Concerns with the content of this Senate Bill have already been raised by other environmentally oriented organizations in Illinois, so I am sure we will be hearing much of the Bill in the future.

SB 3271, the WIND ENERGY FACILITIES ACT, would create the Wind Energy Facilities Construction, Deconstruction, and Siting Act. It would require every commercial wind energy operator that is the owner of a commercial wind energy facility located on land owned by another person or entity shall enter into an agricultural impact mitigation agreement with the Illinois Department of Agriculture to preserve the integrity of any agricultural land that is impacted by commercial wind energy facility construction. It also provides that the commercial wind energy operator is responsible for deconstruction of the commercial wind energy facility and for all costs associated with deconstruction of that facility and associated facilities. SB 3271 has been referred to Assignments.

SB 3453, ENERGY EFFICIENCY FUND-REBATES, creates the Energy Efficiency Portfolio Standards Fund. All moneys received by the Department of Commerce and Economic Opportunity under specified provisions of the Public Utilities Act related to energy efficiency shall be deposited into the Energy Efficiency Portfolio Standards Fund and shall be used only for the purposes authorized by those provisions of the Public Utilities Act. Currently SB 3453 sits in Assignments.

SB 3723, INC TX-CREDIT FOR GREEN POWER, creates a credit for taxpayers who make a purchase of green power during the taxable year. Provides that the credit shall be in an amount equal to 5% of the amount expended if the taxpayer is a purchaser of Illinois-based green power and 3% of the amount expended if the taxpayer is a purchaser of green power from a source outside of Illinois. Defines "green power" as electricity or natural gas produced from renewable or non-polluting technologies including, but not limited to, air turbines (windmills), geothermal power plants, hydropower plants, solar cells or biomass. Currently SB 3723 has been referred to Assignments, and if passed could be a big boost for renewable energy production in Illinois.

SB 3811, PUBLIC UTILITIES-NET METERING, makes changes concerning devices used to measure the flow of electricity; the methods for measuring and charging or crediting for the net electricity supplied; and the rates charged to net metering customers. SB 3811 has been referred to Assignments.

On the House side of the Illinois General Assembly, there are ten bills of interest beginning with HB 4496, PLUMBING-CODE OF STANDARDS, which provides that by January 1, 2013, the Illinois Department of Public Health shall amend the existing minimum code of standards for plumbing and the fixtures, materials, design, and installation methods of plumbing systems to reflect advances in those technologies and methods that more efficiently utilize natural resources and protect public health. It also provides that the Department shall consider the recommendations contained in nationally and internationally recognized plumbing codes and recommendations of nationally and internationally recognized material and equipment testing laboratories so that the State's plumbing code standards are consistent with the leading technologies and methods that more efficiently utilize natural resources and protect public health. HB 4496 has been referred to the Rules Committee, and if passed, could alleviate significant obstacles when projects wish to implement innovative plumbing techniques on green construction projects, but are disallowed by current law. So we shall be keeping a close eye on this Bill.

HB 3974, UTILITIES - ENERGY EFFICIENCY, provides that certain electric utilities in Illinois shall procure energy efficiency products (in addition to power and energy) for its eligible retail customers. It also provides that for non-eligible retail customers the utility shall procure any supply requirements, including energy efficiency products, in the applicable markets as needed to serve those customers. In addition, a proposed procurement plan shall include the proposed energy efficiency products for which contracts will be executed during the next year, and cost effective energy efficiency measures shall be procured whenever the cost is lower than procuring comparable capacity products, supply products, or both, provided that certain conditions are met by the energy efficiency products. The Illinois Power Agency's procurement plan shall identify energy efficiency products to be procured. Currently HB 3974 has been referred to the Rules Committee.

HB 4064, PROCUREMENT-FLEX FUEL VEHICLES, removes a provision permitting the Chief Procurement Officer to exempt certain vehicle procurements from a Section requiring all gasoline-powered vehicles purchased from State funds to be flexible fuel or fuel efficient hybrid vehicles and all diesel fuel vehicles purchased from State funds to be certified by the manufacturer to run on 5% biodiesel fuel. HB 4064 has been assigned to the State Government Administration Committee.

HB 4986, EPA-FEES/RECYCLING, and introduced by Rep. Karen May, a close friend of USGBC-Illinois, amends the Environmental Protection Act. It changes the categories of waste that qualify for exemptions from State and local tipping fees and Subtitle D management fees. It also amends the Solid Waste Planning and Recycling Act by requiring each county to report its recycling and composting rate and its disposal rate to the Environmental Protection Agency. Further, it establishes a recycling and composting goal that each county waste management plan must satisfy, plus amends the Illinois Solid Waste Management Act by authorizing the Department of Commerce and Economic Opportunity to prepare a resource management plan that contains certain information about recycling and composting in the State. Lastly, it would provide grants to counties, municipalities with a population of 1,000,000 or

more, and municipal joint action agencies to help achieve the recycling and composting goals. HB 4986 now sits in the Rules Committee.

HB 5071, UTILITY-ELECTRIC VEHICLE-CHARGE, provides that an entity that owns or operates a facility that furnishes or sells electricity to the public for the purpose of charging electric vehicles is not and shall not be deemed a public utility or an alternative retail electric supplier. If, however, the entity that owns or operates such a facility is otherwise deemed a public utility, an alternative retail electric supplier, or is otherwise subject to regulation, then that entity is not exempt from and remains subject to the otherwise applicable provisions of the Public Utilities Act. HB 5071 has been referred to the Rules Committee.

HB 5095, GREEN ENERGY BUSINESS ACT, creates the Green Energy Business Act which authorizes the Department of Commerce and Economic Opportunity to receive and approve the applications of qualified businesses seeking designation as Green Energy Businesses. It would also amend the Illinois Income Tax Act, the Retailers' Occupation Tax Act, and the Public Utilities Act to provide that Green Energy Businesses are eligible for certain credits and exemptions under those Acts. Currently HB 5095 has been referred to the Rules Committee.

HB 5195, IFA-CONSERVATION PROJECT, would amend the Illinois Finance Authority Act by expanding the definition of "energy conservation project" in connection with any school district or community college district project, and providing that the Illinois Finance Authority may (rather than shall) assist the Department of Commerce and Economic Opportunity to establish and implement a program to assist units of local government to identify and arrange financing for energy conservation projects. HB 5195 has been referred to the Rules Committee, and if passed may limit energy conservation projects for educational facilities by switching the current obligation of IFA to assist with these projects to an elective decision.

HB 5227, SCH CONSTRUCT-REHABILITATION, would amend the School Construction Law by including the rehabilitation of aging buildings to alleviate classroom shortages and the rehabilitation of school facilities determined to be severe and continuing health or life safety hazards on the list of projects that are to be prioritized. Currently HB 5227 has been referred to the Rules Committee, and if passed could help with other initiatives the USGBC-Illinois Chapter is working on toward greening our schools.

HB 5332, HOMEOWNER ASSN-ELECTRIC VEHICLE, creates the Homeowners' Electric Vehicle Act which would provide that: the Act applies only to electric vehicle charging systems at homes or in common areas; a homeowners' association, property owners' association, or condominium unit owners' association must adopt an electric vehicle charging policy regarding the location, design, and architectural requirements of electric vehicle charging systems within 120 days after the association receives a request for a policy or an application from an association member; and an application for approval, if required, must be acted upon within 90 days after the time of application or, if a policy is not then in place, then 90 days after the policy is adopted. It also provides for damages and attorney's fees and costs under certain circumstances for violations of the ACT. Currently HB 5332 sits in the Rules Committee.

HB 5503, GOVT ENERGY EFFICIENCY PROGRAM, creates the Energy Efficiency Program to be administered by the Capital Development Board. The Program provides for implementation of low cost/no cost energy conservation measures, engineering analyses, energy efficiency measures, building improvements, and monitoring of results for State-owned or State-leased buildings. Savings from the implementation of energy efficiency measures under a guaranteed energy savings performance contract shall be used to satisfy the obligations under the guaranteed energy savings performance contract and to repay the cost of the other means used to finance the energy efficiency measures. The Board shall establish high-performance building standards, and a process for procurement of energy savings performance contracts. It also sets forth provisions concerning an energy audit training program and life-cycle energy cost analyses; requires an annual report on energy efficiency measures in State government; and creates the Energy Efficiency in State Government Buildings Fund. HB 5503 has been filed with the Clerk by Rep. Brandon W. Phelps.

The number of bills being referenced here may be hard to digest at once, but as the legislative process proceeds we will focus on those bills having significant progress and provide greater details on those bills. In the meantime, please feel free to send other legislative initiatives that may not be covered in these Legislative Updates you may think should be include.

### **Monthly Spotlight: A Synopsis of the 2012 Advocacy Plan for the USGBC-Illinois Chapter.**

Just as the General Assembly is starting the year in over-drive, so is the USGBC-Illinois Chapter's 2012 Advocacy initiatives. This being said, you may be interested in some of the initiatives that are currently underway. These initiatives focus on both the local and state government level.

Local Government Initiatives Include:

1. *Support and maintain government green building leadership.*
  - Do they adopt or reference LEED?
2. *Organize a green building tour.*
3. *Support members of the Mayors' Alliance for Green Schools and recruit new members.*
4. *Connect with local Sierra Club, ELPC, AIA-Illinois, and set a shared policy goal.*
  - USGBC's partnerships offers increased advocacy capacity and expertise on advancing policy.
5. *Connect with planning officials on green neighborhood development.*
6. *Drive demand for green homes.*
  - Work with local realtor groups (especially NAR's Green Designees), appraisers and energy auditors to convey the value of a healthier, safer, more environmentally responsible and

efficient green building. Greening the MLS to find greener real estate (recognizing labels like LEED, HERS, ENERGY STAR, etc.).

7. *Extend the benefits of green building to the local affordable housing stock.*
8. *Get involved in the process to adopt and update local building codes and standards.*
9. *Promote improved transparency in real estate transactions through building energy disclosure.*
  - Encouraging localized energy disclosure and building energy rating policies.
10. *Engage the business community with a green building challenge.*
  - Challenge local businesses to improve energy efficiency, conserve water and reduce waste with a Green Business Challenge, promoting improved environmental performance of their businesses.
11. *Guide community master plans towards a vision of sustainability.*

State Government Initiatives Include:

1. *Support and maintain government green building leadership.*
  - Keep in touch with your state government about its green building commitments.
2. *Establish USGBC as a critical voice in state regulatory decisions on building policy.*
  - Earn USGBC's place at the table on boards, commissions, and task forces that interpret, deliberate or implement state policy that facilitates (or hinders) building or retrofitting green in the state.
3. *Support the establishment and growth of a green schools caucus in the state legislature.*
  - USGBC launched the 50 for 50 Green Schools Caucus Initiative to provide state legislators with a common forum to share information on green schools, and to provide chapters with a natural partnership and relationship with like-minded state lawmakers.
4. *Lay the groundwork for strong 2012 relationships and initiatives.*
  - Facilitate a strong transition for new governors and legislators.
5. *Coordinate an advocacy day for USGBC members at the state capitol.*
6. *Identify, promote and support state green building policy.*
  - Keep tabs on bills that impact buildings and development.
  - Work with your state legislators to get a few introduced and supported.

*7. Promote a more holistic approach to building codes and standards.*

- Advocate for Standard 189.1 compliance path of the IGCC

For those of you interested in becoming more involved with the success of the 2012 Advocacy efforts, there are plenty of opportunities for you. Take advantage of these opportunities, and get involved!

For additional information concerning the content of this Legislative Update, or the 2012 Advocacy Plan for the USGBC-Illinois Chapter , contact Sean C. Ziadeh: [seanziadeh@hotmail.com](mailto:seanziadeh@hotmail.com)/(248) 320-3208.