



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 11, 2010

Senator Martha Fuller Clark, Chairman
Energy, Environment and Economic Development Committee
Legislative Office Building, Room 102
Concord, NH 03301

Subject: SB 409 An act requiring buildings or structures constructed or renovated using state funding to adhere to certain energy efficiency and building standards

Dear Chairman Fuller Clark and Members of the Committee:

Thank you for the opportunity to provide testimony on SB 409. This bill requires certain state-funded construction projects to meet the silver level or higher certification from the Leadership in Energy and Environmental Design (LEED) green building rating system developed by the U.S. Green Building Council. While the Department of Environmental Services (DES) supports this bill in concept, it is concerned that the language as drafted may not achieve the objective of the bill's sponsors and proponents, and it may also significantly increase the costs associated with construction of state-funded buildings without commensurate long-term savings.

This bill arose as the result of the deliberations of the *Commission to Study Requirements for Safe and Secure Landfills*, established pursuant to HB 672 (2007), one of several bills filed that year intended to address the topic of construction and demolition (C&D) debris disposal. LEED certification requirements (intended to reduce C&D debris by increasing recycling of the wastes and increasing the amount of recyclable materials used in building construction) were posed as an option to reduce C&D debris being sent to landfills.

LEED certification is based on being awarded "points" for a variety of specific green building initiatives, including recycling of construction and demolition debris, and deconstruction. Therefore, the Department views this bill as being a positive step toward reducing the amount of C&D debris generated in New Hampshire. However, as drafted, the bill may have unintended consequences, in particular significantly increasing costs of state construction projects – the LEED construction / testing/ certification process can cost upwards of \$50-\$100,000. The thresholds of 5000 sq. ft. and \$25,000 construction cost may be too low to be cost effective. By comparison, the State of Washington's threshold is 25,000 sq. ft. in similar legislation.

In addition, due to revisions to the LEED certification requirements in 2009, the silver certification level may not result in actual reductions of the C&D waste stream and may achieve only minimum energy savings. Silver certification requires a minimum point

score of 50 out of 100 total points under the US Green Building Council's LEED 2009 (version 3), which went into full effect June 27, 2009. To qualify as a Silver certified building, there is only one "Materials and Resources" category prerequisite, "Storage and Collection of Recyclables." No points are awarded for fulfilling this prerequisite. Therefore, under the 2009 revision, a LEED Silver building can be constructed entirely through the use of virgin materials brought in from out-of-state and by landfilling all the demolition or construction debris generated from a renovation or construction project.

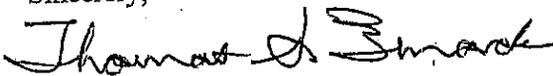
A similar conflict with the intent of SB 409 also exists when looking at the points awarded under the "Energy and Atmosphere" category. As there are 35 optional points available under this category, it is possible to complete a LEED Silver project that achieves only the minimum energy performance requirements for a LEED building. In fact, the breakdown of points available would allow the same building to qualify for a Silver certification while meeting only the minimum waste reduction potential *and* the minimum energy efficiency requirements. Under older versions of LEED (v2.2), this was not the case as the available points were more constrained and would have prevented as wide a range of facilities from qualifying for a Silver certification.

If the intent of SB 409 is to encourage the reduction and reuse of construction and demolition debris generated in NH and to increase the energy performance of the buildings, both of which are consistent with the recommendations of the 2009 NH Climate Action Plan, then the legislation should specify not only a silver certification, but also identify specific points under the "Materials and Resources" and "Energy and Atmosphere" categories that must be met by projects.

In short, there may be alternative ways to achieve the intended result either by revising the certification requirement or by providing an alternative to requiring full LEED certification. DES would welcome the opportunity to work with the sponsors and stakeholders, including the Department of Administrative Services, to recommend alternative language addressing the issues raised above.

If you have other questions or need additional information, please contact Robert Scott, Director, Air Resources Division (Robert.scott@des.nh.gov, 271-1088) or Michael Fitzgerald, Administrator, ARD Technical Services Bureau (Michael.fitzgerald@des.nh.us, 271-6390).

Sincerely,



Thomas Burack
Commissioner

CC: SB 409 Sponsors
Linda M. Hodgdon, Commissioner, Department of Administrative Services
Michael J. Wimsatt, P.G., Director, Waste Management Division