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|  | **The Council of the City of New York**  **Finance Division**  **Latonia McKinney, Director**  **Fiscal Impact Statement**  **Proposed Intro. no: 701-A**  **Committee: Housing and Buildings** |
| **Title:** A local law to amend the New York city charter, in relation to low energy intensity building requirements for certain capital projects | **Sponsor(S):** The Speaker (Council Member Mark-Viverito) and Constantinides, Levin, Garodnick, Arroyo, Lander, Palma, Richards, Rodriguez, Menchaca, Levine, Vallone, Vacca, Williams, Cumbo, Dromm, Reynoso, Rose, Espinal, Maisel, Crowley, Chin, Rosenthal, Van Bramer, Miller, Kallos, Johnson, Torres, Lancman, Cohen, Barron, Ferreras-Copeland, Treyger and Ulrich |

**Summary of Legislation:** This bill would require that certain City capital projects that are added to the capital plan on or after July 1, 2017 relating to City-owned buildings be designed and constructed with rigorous energy efficiency standards. the provisions of this bill would apply to capital projects which involve the construction of a new building, an addition to an existing building, or the substantial reconstruction of an existing building with an estimated cost of $2,000,000 or more (as adjusted for inflation). Such buildings would be required to be designed and constructed as “low energy intensity buildings,” meaning that the building’s energy use intensity (EUI) either:

* matches passive house building standards;
* is 50 percent less than the 2013 edition of the energy standard for buildings published by the American Society of Heating, Refrigerating and Air Conditioning engineers (ASHRAE);
* is 50 percent lower than the median source EUI of benchmarked buildings in the City; or
* meets an alternative target set forth by the Mayor.

It would also require that the design agency for such projects consider both:

* the feasibility of designing and constructing such project to produce energy onsite in an amount equal to or greater than ten percent of such building’s total energy needs; and
* for projects involving buildings no more than three stories tall, the feasibility of designing and constructing such building as a net-zero energy building.

The legislation would authorize the Mayor to set alternative energy intensity targets, but in such case would require that within 60 days the Mayor issue a report describing the alternative target and the buildings or work to which it would apply and, if the alternative target is less stringent than the energy intensity target set forth in the legislation, the report must include the reasons that the energy intensity target in the legislation would be impracticable or unduly burdensome.

The Mayor has under current law the authority to exempt up to 20 percent of the value of the capital work in a given year within the different categories of capital work and design standards outlined in this bill. The bill would require the Mayor to submit a plan to the Speaker, and post online, by January 1, 2017 for ensuring that all eligible projects will meet passive house standards by 2030. The Mayor would also be required to produce a triennial report containing recommended practices for designing and constructing low energy intensity buildings.

**Effective Date:** This local law would take effect on the same date that a local law amending the New York city charter, in relation to green building standards for certain capital projects, as proposed in introduction number 721-A for the year 2016, takes effect.

**Fiscal Year In Which Full Fiscal Impact Anticipated:** Fiscal 2018

**Fiscal Impact Statement:**

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|  | **Effective FY16** | **FY Succeeding**  **Effective FY17** | **Full Fiscal**  **Impact FY18** |
| **Revenues** | $0 | $0 | $0 |
| **Expenditures** | $0 | $0 | Not Estimable\* |
| **Net** | $0 | $0 | $0 |

**Impact on Revenues & Expenditures**: This bill would not impact any items currently in the capital plan because it applies only to capital projects added to the plan on or after July 1, 2017 (i.e. Fiscal 2018 and later). Council Finance is unable to predict which will be added in the future, and, therefore, is unable to reasonably estimate the fiscal impact of this bill. While the current capital plan does currently extend through Fiscal 2019, the legislation would not apply to the projects already in the plan, even in Fiscal 2018 or 2019, so the current plan is not an accurate tool on which to base an estimate.

The City’s capital plan, by its very nature, is idiosyncratic and unpredictable beyond what is any current iteration. The City does not allocate a set, repeated amount for housing or schools each year, but determines an amount needed based on civic priorities and perceived need. It is more than likely that items will be added to the plan after July 1, 2017, but the nature, size, and amount cannot be determined at this time.

While the cost is not estimable, it is expected that Proposed Intro. 701-A will have cost implications for capital projects added to the City’s budget in future years. To give a sense of what those costs could look like, Council Finance evaluated how the City’s expense costs would have shifted had the requirements of this bill and the related Proposed Intro. 721-A had been applied to the capital projects added in Fiscal 2015.

For purposes of this exercise, it was assumed that in meeting the LEED standards mandated by Proposed Intro. 721-A a project could be designed to also meet the energy efficiency requirements of Intro 701-A at the same cost. Similarly, it was assumed that the energy savings associated with Proposed Intro. 701-A would similarly overlap with that of Proposed Intro. 721-A.

The September Commitment Plan in 2015 had about $10.1 billion in new capital projects added since the same plan the year before (i.e. Fiscal 2015). Of that, Council Finance estimates that $2.4 billion would have been impacted by the bill. To meet the requirements of Proposed Intros. 701-A and 721-A, capital costs would have increased about $213.6 million. Financing this over 30 years at a standard (though high by current borrowing rates) five percent interest rate, the annual expense would have been $13.9 million. This would have been offset by about by energy cost savings of about $6.9 million, for a net cost of about $7 million in additional annual debt service costs for the next 30 years. This amount would have been the increase for one year of the capital plan. If the subsequent year had added a similar amount of projects, the new net cost would have been $14 million in additional annual debt service costs.

Assumptions made in this estimate include:

* construction costs of about $400 per gross square foot;
* construction cost surcharge of 7.5% to meet the higher standards;
* LEED certification costs equivalent to 1.4% of total construction costs;
* Energy costs of about $0.15 per kilowatt hour (kWh); and
* Energy usage of about 15 kWh per gross square foot.

It should be noted that both Proposed Intro. 701-A and 721-A give the Mayor discretion in setting lower targets for many of the standards required by the bills. If the Mayor were to do so, the annual costs could be lower than what is presented here.

It is expected that the reporting requirements will be done with existing resources.

**Source of Funds To Cover Estimated Costs:** TBD

**Source of Information:** New York City Council, Finance Division

Mayor’s Office of Legislative Affairs

New York City Department of Citywide Administrative Services

US Green Building Council of New York

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**Legislative History:** This legislation was introduced to the full Council on March 11, 2015 as Intro. 701 and was referred to the Committee on Housing and Buildings. A hearing was held by the Committee on Housing and Buildings on September 25, 2015 and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. 701-A, will be considered by the Committee on Housing and Buildings on March 7, 2016. Following a successful Committee vote, the bill would be submitted to the full Council for a vote on March 9, 2016.

**Date Prepared:** March 4, 2016