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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1301

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State of Washington

63rd Legislature

2013 Regular Session

By House Finance (originally sponsored by Representatives Morris, Ryu, McCoy, Hudgins, Morrell, and Pollet)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to creating clean energy jobs in Washington state  
2 through renewable energy incentives; amending RCW 82.16.120 and  
3 82.16.130; adding new sections to chapter 82.16 RCW; adding a new  
4 section to chapter 80.28 RCW; creating a new section; providing an  
5 effective date; providing an expiration date; and declaring an  
6 emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature makes the following  
9 findings:

10 (1) In order to mitigate the negative consequences of greenhouse  
11 gas and particulate air emissions, every state and nation in the world  
12 must do its part to develop clean energy technology.

13 (2) The sooner that economies of scale are available for the  
14 manufacture and marketing of renewable energy technologies, the sooner  
15 these technologies will become cost-competitive or even less expensive  
16 than traditional, polluting sources of energy.

17 (3) The clean technology sector of the economy is one that is  
18 growing rapidly, even in a time when other sectors have been stagnant  
19 or in a recession.

1 (4) In enacting incentives for renewable energy systems, the  
2 legislature intends to attract to Washington a vibrant clean technology  
3 sector.

4 (5) The tax incentives created in this act can be an important  
5 economic development tool, increasing high-wage employment both east  
6 and west of the Cascade mountains.

7 (6) It is the intent of the legislature, in modifying the existing  
8 renewable energy investment cost recovery incentive program, to improve  
9 utilization of the incentive by state residents and businesses,  
10 streamline program administration, and incubate the development of  
11 clean energy technology.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16 RCW  
13 to read as follows:

14 (1) The legislature finds that the effectiveness of attempts to  
15 foster job creation and retention are important aspects of setting tax  
16 policy. In order to make policy choices regarding the best use of  
17 limited state resources, the legislature needs to know how tax  
18 incentives are used, and the degree to which incentive programs meet  
19 the legislature's intent.

20 (2) The legislature intends to achieve the following performance  
21 milestones as a result of the incentives awarded under this act:

22 (a) Increased utilization of the available tax credits, as  
23 evidenced by:

24 (i) A one hundred percent increase in the number of solar energy  
25 systems installed and receiving the incentive, from the 2012 baseline;  
26 and

27 (ii) A one hundred percent increase in the total generating  
28 capacity of installed systems, from the 2012 baseline;

29 (b) A decrease over time in the levelized cost of the systems  
30 receiving the tax preferences; and

31 (c) Growth of solar-related employment, as evidenced by:

32 (i) An increase in the total number and per capita rate of solar-  
33 related jobs in Washington;

34 (ii) Achievement of a top ten national ranking for solar-related  
35 employment and a top nine ranking for per capita solar-related  
36 employment;

1 (d) An increase in the utilization of, and employment related to,  
2 nonsolar renewable energy systems eligible to receive the incentives  
3 created in this act; and

4 (e) Leveraging of nonstate funds, as measured by a report of the  
5 total dollar value of tax credits awarded within each county and zip  
6 code, and the total amount of nonstate funds leveraged within each  
7 county and zip code.

8 (3)(a) The department must collect, through its application and  
9 certification process, data from persons receiving the tax preferences  
10 created in this act as necessary to report on progress toward achieving  
11 the performance milestones listed in subsection (1) of this section.

12 (b) In compliance with RCW 43.01.036, the department must submit an  
13 annual report to the legislature that details the progress achieved in  
14 reaching the outcome specified in subsection (1)(a)(i) of this section.

15 (4) All recipients of tax credits or incentive payments awarded  
16 under this chapter must provide any data requested for reporting  
17 purposes. Failure to comply may result in the loss of a tax credit  
18 award or incentive payment in the following year.

19 (5) As part of its 2019 tax preference reviews conducted under  
20 chapter 43.136 RCW, the joint legislative audit and review committee  
21 must assess the performance of the incentives created in this act, with  
22 reference to all of the performance milestones established in this  
23 section.

24 **Sec. 3.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to read  
25 as follows:

26 ~~(1)((a) Any individual, business, local governmental entity, not~~  
27 ~~in the light and power business or in the gas distribution business, or~~  
28 ~~a participant in a community solar project may apply to the light and~~  
29 ~~power business serving the situs of the system, each fiscal year~~  
30 ~~beginning on July 1, 2005, for an investment cost recovery incentive~~  
31 ~~for each kilowatt hour from a customer-generated electricity renewable~~  
32 ~~energy system)) Beginning July 1, 2013, any person, as defined in RCW~~  
33 ~~82.04.030, may apply to receive a voucher from an agency designated by~~  
34 ~~the governor entitling the person to receive annual incentive payments~~  
35 ~~from the light and power business serving the situs of a renewable~~  
36 ~~energy system for a term of ten years. Throughout this act, "agency~~

1 designated by the governor" means any unit of state government that the  
2 governor designates to administer the program created in this chapter.  
3 Eligibility to receive the voucher is limited as follows:

4 (a) The person applying to receive the voucher must be:

5 (i) The meter holder, meaning the party responsible to the light  
6 and power business for paying for electricity transmitted to the situs  
7 of an eligible renewable energy system;

8 (ii) The owner of the renewable energy system; and

9 (iii) Not a person who is a light and power business.

10 (b) In the case of a community solar project as defined in RCW  
11 82.16.110(2)(a)(i), the administrator must apply for the investment  
12 cost recovery incentive on behalf of each of the other owners.

13 (c) In the case of a community solar project as defined in RCW  
14 82.16.110(2)(a)(iii), the company owning the community solar project  
15 must apply for the investment cost recovery incentive on behalf of each  
16 member of the company.

17 ~~((+2))~~ (d) In the case of a customer-generated renewable energy  
18 system for which a person has already received payments prior to July  
19 1, 2013, under RCW 82.16.120, a person may apply to receive a voucher  
20 as provided in this act entitling the person to receive incentive  
21 payments until June 30, 2023.

22 (2) The award of a voucher creates a contractually enforceable  
23 promise on behalf of the state to authorize the light and power  
24 business to receive a credit against the taxes due under this chapter  
25 for an amount equal to the annual incentive payments made under this  
26 section in any fiscal year. A light and power business that chooses to  
27 participate in the voucher program created in this section may cease to  
28 accept vouchers for new systems at any time, but must continue to make  
29 payments pursuant to any existing voucher for its entire term, unless  
30 a court has declared the incentives provided under this section to be  
31 illegal.

32 (3) Eligibility to receive the incentive payments provided in  
33 subsection (1) of this section is limited as follows:

34 (a) The person applying to receive the voucher must be the meter  
35 holder, meaning the party responsible to the light and power business  
36 for paying for electricity transmitted to the situs of an eligible  
37 renewable energy system. The meter holder need not occupy the real  
38 property upon which the system is installed; and

1 (b) An owner of the renewable energy system.

2 (4) When the meter holder is a residential retail electric  
3 customer, the system must have an electrical generating capacity of not  
4 more than five kilowatts, and when the meter holder is not a  
5 residential retail electric customer, the system must have an  
6 electrical generating capacity of not more than one hundred kilowatts.

7 (5)(a) Before submitting for the first time the application for the  
8 incentive allowed under (~~subsection (4) of~~) this section, the  
9 applicant must submit to the department of revenue and to the (~~climate~~  
10 ~~and rural energy development center at the Washington State University,~~  
11 ~~established under RCW 28B.30.642,~~) agency designated by the governor  
12 a certification in a form and manner prescribed by the department that  
13 includes, but is not limited to, the following information:

14 (i) The name and address of the applicant and location of the  
15 renewable energy system.

16 (A) If the applicant is an administrator of a community solar  
17 project as defined in RCW 82.16.110(2)(a)(i), the certification must  
18 also include the name and address of each of the owners of the  
19 community solar project.

20 (B) If the applicant is a company that owns a community solar  
21 project as defined in RCW 82.16.110(2)(a)(iii), the certification must  
22 also include the name and address of each member of the company;

23 (ii) The applicant's tax registration number;

24 (iii) That the electricity produced by the applicant meets the  
25 definition of "customer-generated electricity" or is generated by a  
26 system that meets the eligibility requirements set forth in subsection  
27 (3) of this section, and that the renewable energy system produces  
28 electricity with:

29 (A) Any solar inverters and solar modules manufactured in  
30 Washington state;

31 (B) A wind generator powered by blades manufactured in Washington  
32 state;

33 (C) A solar inverter manufactured in Washington state;

34 (D) A solar module manufactured in Washington state;

35 (E) A stirling converter manufactured in Washington state; or

36 (F) Solar or wind equipment manufactured outside of Washington  
37 state;

1 (iv) That the electricity can be transformed or transmitted for  
2 entry into or operation in parallel with electricity transmission and  
3 distribution systems; ~~((and))~~

4 (v) The date that the renewable energy system received its final  
5 electrical permit from the applicable local jurisdiction;

6 (vi) The annual electricity consumption at the meter in the  
7 previous calendar year, or an engineering estimate of the projected  
8 annual consumption, if no record of annual consumption at the meter is  
9 available or if electricity consumption at the meter has substantially  
10 changed; and

11 (vii) A projection of the annual electricity production of the  
12 system in kilowatt-hours.

13 (b) Within thirty days of receipt of the certification the  
14 ~~((department of revenue))~~ agency designated by the governor must notify  
15 the applicant by mail, or electronically as provided in RCW 82.32.135,  
16 whether the renewable energy system qualifies for an incentive under  
17 this section. ~~((The department may consult with the climate and rural~~  
18 ~~energy development center to determine eligibility for the incentive.))~~  
19 The agency designated by the governor must either issue the voucher or  
20 inform the applicant of the reason that the application is denied.  
21 System certifications, applications, vouchers, and the information  
22 contained therein are subject to disclosure under RCW 82.32.330(3)(1).

23 ~~((+3))~~ (c) The agency designated by the governor is authorized to  
24 assess an application fee to recover its costs of administering the  
25 program established in this section.

26 (6)(a) The agency designated by the governor must also transmit the  
27 voucher electronically as provided in RCW 82.32.135 to the light and  
28 power business serving the situs of the system.

29 (b) The voucher must state the first and last day of the ten-year  
30 term, or other term in the case of persons receiving a voucher as  
31 provided in subsection (1)(d) of this section, for which the applicant  
32 has qualified to receive production incentive payments from the light  
33 and power business.

34 (c) The light and power business, upon receiving the voucher, must  
35 make incentive payments for each kilowatt-hour of electricity  
36 generated.

37 (d) If, during the ten-year term of the voucher, there is a change  
38 in the meter holder and a new party becomes financially responsible to

1 the light and power business, the voucher is transferrable to the new  
2 meter holder, provided that the new meter holder is also a person  
3 eligible to receive payments under this section.

4 ~~(7)(a) By August 1st of each year ((application for the incentive~~  
5 ~~must be made to the light and power business serving the situs of the~~  
6 ~~system by certification in a form and manner prescribed by the~~  
7 ~~department that includes, but is not limited to, the following~~  
8 ~~information)), the agency designated by the governor must receive a~~  
9 ~~report of the amount of kilowatt-hours generated in the immediately~~  
10 ~~preceding fiscal year by any system for which a person is receiving~~  
11 ~~incentive payments pursuant to this section. The report may be~~  
12 ~~submitted in one of the following ways:~~

13 ~~(i) ((The name and address of the applicant and location of the~~  
14 ~~renewable energy system.~~

15 ~~(A) If the applicant is an administrator of a community solar~~  
16 ~~project as defined in RCW 82.16.110(2)(a)(i), the application must also~~  
17 ~~include the name and address of each of the owners of the community~~  
18 ~~solar project.~~

19 ~~(B) If the applicant is a company that owns a community solar~~  
20 ~~project as defined in RCW 82.16.110(2)(a)(iii), the application must~~  
21 ~~also include the name and address of each member of the company;~~

22 ~~(ii) The applicant's tax registration number;~~

23 ~~(iii) The date of the notification from the department of revenue~~  
24 ~~stating that the renewable energy system is eligible for the incentives~~  
25 ~~under this section; and~~

26 ~~(iv) A statement of the amount of kilowatt hours generated by the~~  
27 ~~renewable energy system in the prior fiscal year.)) The light and power~~  
28 ~~business serving the situs of the system may report the amount of~~  
29 ~~kilowatt-hours generated by the system over the course of the year, as~~  
30 ~~determined by reading a production meter or any other meter that the~~  
31 ~~utility determines to be ninety-eight percent accurate; or~~

32 ~~(ii) The person receiving incentive payments may submit a statement~~  
33 ~~in the form of a sworn affidavit reporting the amount of kilowatt-hours~~  
34 ~~generated by the system over the course of the year.~~

35 (b) Within sixty days of receipt of the ~~((incentive certification))~~  
36 report required by subsection (7) of this section, the agency  
37 designated by the governor must notify the light and power business  
38 serving the situs of the system ~~((must notify the applicant in~~

1 ~~writing~~) whether the incentive payment will be authorized or denied.  
2 The business may consult with the climate and rural energy development  
3 center to determine eligibility for the incentive payment. Incentive  
4 certifications and the information contained therein are subject to  
5 disclosure under RCW 82.32.330(3)(1).

6 (c)(i) Persons, administrators of community solar projects, and  
7 companies receiving incentive payments must keep and preserve, for a  
8 period of five years, suitable records as may be necessary to determine  
9 the amount of incentive applied for and received. Such records must be  
10 open for examination at any time upon notice by the light and power  
11 business that made the payment or by the department. If upon  
12 examination of any records or from other information obtained by the  
13 business or department it appears that an incentive has been paid in an  
14 amount that exceeds the correct amount of incentive payable, the  
15 business may assess against the person for the amount found to have  
16 been paid in excess of the correct amount of incentive payable and must  
17 add thereto interest on the amount. Interest is assessed in the manner  
18 that the department assesses interest upon delinquent tax under RCW  
19 82.32.050.

20 (ii) If it appears that the amount of incentive paid is less than  
21 the correct amount of incentive payable the business may authorize  
22 additional payment.

23 ~~((4))~~ (8) Except for community solar projects, the investment  
24 cost recovery incentive may be paid fifteen cents per economic  
25 development kilowatt-hour unless requests exceed the amount authorized  
26 for credit to the participating light and power business. For  
27 community solar projects, the investment cost recovery incentive may be  
28 paid thirty cents per economic development kilowatt-hour unless  
29 requests exceed the amount authorized for credit to the participating  
30 light and power business. For the purposes of this section, the rate  
31 paid for the investment cost recovery incentive may be multiplied by  
32 the following factors:

33 (a) For ~~((customer-generated))~~ electricity produced using solar  
34 modules manufactured in Washington state or a solar stirling converter  
35 manufactured in Washington state, two and four-tenths;

36 (b) For ~~((customer-generated))~~ electricity produced using a solar  
37 or a wind generator equipped with an inverter manufactured in  
38 Washington state, one and two-tenths;

1 (c) For ~~((customer-generated))~~ electricity produced using an  
2 anaerobic digester, or by other solar equipment or using a wind  
3 generator equipped with blades manufactured in Washington state, one;  
4 and

5 (d) For all other ~~((customer-generated))~~ electricity produced by  
6 wind, eight-tenths.

7 ~~((5)(a) No individual, household, business, or local governmental  
8 entity is eligible for incentives provided under subsection (4) of this  
9 section for more than five thousand dollars per year.))~~ (9) On or after  
10 July 1, 2018, a new base rate and multipliers may go into effect. New  
11 rates and multipliers adopted under the authority of this subsection  
12 will be applicable to any vouchers awarded after July 1, 2018. The  
13 rates must be adjusted to reflect decreases in the capital costs of  
14 purchasing and installing a renewable energy system, changes in the  
15 levelized costs of such systems, or other factors that the agency deems  
16 relevant to fulfilling the purpose of incentivizing job growth and the  
17 environmental and economic benefits of renewable energy in the state.

18 (10)(a) No person is eligible for incentives under this section for  
19 electricity generated in excess of the net kilowatt-hours consumed  
20 annually at the metered location. No person is eligible for incentives  
21 provided under this section for more than twenty-five thousand dollars  
22 per year per eligible renewable energy system.

23 (b) Except as provided in (c) through ~~((e))~~ (d) of this  
24 subsection ~~((5))~~ (10), each applicant in a community solar project is  
25 eligible for up to five thousand dollars per year.

26 (c) Where the applicant is an administrator of a community solar  
27 project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible  
28 for an incentive but only in proportion to the ownership share of the  
29 project, up to five thousand dollars per year.

30 (d) Where the applicant is a company owning a community solar  
31 project that has applied for an investment cost recovery incentive on  
32 behalf of its members, each member of the company is eligible for an  
33 incentive that would otherwise belong to the company but only in  
34 proportion to each ownership share of the company, up to five thousand  
35 dollars per year. The company itself is not eligible for incentives  
36 under this section.

37 ~~((e) In the case of a utility owned community solar project, each~~

1 ~~ratepayer that contributes to the project is eligible for an incentive~~  
2 ~~in proportion to the contribution, up to five thousand dollars per~~  
3 ~~year.~~

4 ~~(6)) (11) If, at any time before July 1, 2018, requests for the~~  
5 ~~investment cost recovery incentive exceed fifty percent of the amount~~  
6 ~~of funds available for credit to the participating light and power~~  
7 ~~business, the ((incentive payments must be reduced proportionately.~~

8 ~~(7) The climate and rural energy development center at Washington~~  
9 ~~State University energy program may establish guidelines and standards~~  
10 ~~for technologies that are identified as Washington manufactured and~~  
11 ~~therefore – most – beneficial – to – the – state's – environment)) agency~~  
12 ~~designated by the governor must notify the governor and the legislature~~  
13 ~~and must adjust base rates and multipliers to a level expected to allow~~  
14 ~~all eligible systems to continue to apply for and receive incentives.~~  
15 ~~New rates and multipliers adopted under the authority of this~~  
16 ~~subsection (11) will be applicable to any vouchers awarded after the~~  
17 ~~new rates and multipliers are adopted.~~

18 ~~((8)) (12) The environmental attributes of the renewable energy~~  
19 ~~system belong to the applicant, and do not transfer to the state or the~~  
20 ~~light and power business upon receipt of the investment cost recovery~~  
21 ~~incentive.~~

22 ~~((9)) (13) No incentive may be paid under this section for~~  
23 ~~kilowatt-hours generated before July 1, 2005(~~7~~–~~or~~–~~after~~–~~June~~–~~30~~,~~  
24 ~~2020)). No new vouchers may be issued after June 30, 2023.~~

25 **Sec. 4.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to read  
26 as follows:

27 (1) A light and power business (~~shall be~~) is allowed a credit  
28 against taxes due under this chapter in an amount equal to the  
29 investment cost recovery incentive payments made in any fiscal year  
30 under RCW 82.16.120. The credit shall be taken in a form and manner as  
31 required by the department. (~~The credit under this section for the~~  
32 ~~fiscal year may not exceed one half percent of the businesses' taxable~~  
33 ~~power sales due under RCW 82.16.020(1)(b) or one hundred thousand~~  
34 ~~dollars, whichever is greater.))~~

35 (2) Incentive payments to participants in a utility-owned community  
36 solar project as defined in RCW 82.16.110(2)(a)(ii) may only account  
37 for up to twenty-five percent of the total allowable credit. Incentive

1 payments to participants in a company-owned community solar project as  
2 defined in RCW 82.16.110(2)(a)(iii) may only account for up to five  
3 percent of the total allowable credit.

4 (3) The total credit claimed under this section may not exceed the  
5 tax that would otherwise be due under this chapter. Refunds (~~shall~~)  
6 may not be granted in the place of credits. Expenditures not used to  
7 earn a credit in one fiscal year may not be used to earn a credit in  
8 subsequent years.

9 ~~((+2))~~ (4) For any light and power business that has claimed  
10 credit for amounts that exceed the correct amount of the incentive  
11 payable under RCW 82.16.120, the amount of tax against which credit was  
12 claimed for the excess payments (~~shall be~~) is immediately due and  
13 payable. The department (~~shall~~) must assess interest but not  
14 penalties on the taxes against which the credit was claimed. Interest  
15 (~~shall be~~) is assessed at the rate provided for delinquent excise  
16 taxes under chapter 82.32 RCW, retroactively to the date the credit was  
17 claimed, and (~~shall~~) accrues until the taxes against which the credit  
18 was claimed are repaid.

19 ~~((3) The right to earn tax credits under this section expires June~~  
20 ~~30, 2020. Credits may not be claimed after June 30, 2021.))~~ (5) For  
21 incentive payments made pursuant to RCW 82.16.120, the authority of the  
22 agency designated by the governor to issue a voucher expires June 30,  
23 2023.

24 (6) The total credits available under this section is the aggregate  
25 of 0.5% of each participating light and power businesses' annual  
26 taxable power sales in the immediately preceding calendar year.  
27 Credits are available on a first-come, first-served basis.

28 NEW SECTION. Sec. 5. A new section is added to chapter 82.16 RCW  
29 to read as follows:

30 (1) The legislature finds that allowing utilities to finance and  
31 own renewable energy systems may help achieve the objectives of  
32 increasing the number of renewable energy systems in the state and  
33 incubating the development of the state's clean energy technology  
34 industry. Third-party ownership is also a tool to increase access to  
35 renewable energy systems for those residents and businesses who cannot  
36 leverage sufficient capital to pay the full cost of a renewable energy

1 system upfront. The legislature intends to make a renewable energy  
2 investment cost recovery incentive tax credit available to renewable  
3 energy systems owned and financed by utilities.

4 (2) A qualifying utility, as defined in RCW 19.285.030(18), may  
5 claim a credit under this section for electricity generated by a solar  
6 energy system that has a generating capacity of not more than one  
7 hundred kilowatts, is installed on the premises of a residential or  
8 commercial retail electric customer of the qualifying utility in  
9 Washington, and is owned by the qualifying utility.

10 (3) The credit allowed for solar energy systems owned by a  
11 qualifying utility may not exceed 0.5% of the qualifying utility's  
12 taxable power sales due under RCW 82.16.020(1)(b), or one hundred  
13 thousand dollars, whichever is greater.

14 (4) The credit that may be claimed by a qualifying utility for  
15 power generated by a solar energy system is equal to the amount of  
16 incentive payment a community solar project with the same power  
17 generation, consumption, and system components would have been eligible  
18 to receive under RCW 82.16.120.

19 (5) The environmental attributes of the solar energy system belong  
20 to the qualifying utility.

21 (6) The total credit claimed under this section and RCW 82.16.130  
22 may not exceed the tax that would otherwise be due under this chapter.  
23 Refunds may not be granted in the place of credits. Expenditures not  
24 used to earn a credit in one fiscal year may not be used to earn a  
25 credit in subsequent years.

26 (7) For any qualifying utility that has claimed credit for amounts  
27 that exceed the correct amount of the incentive payable under RCW  
28 82.16.120, the amount of tax against which credit was claimed for the  
29 excess payments is immediately due and payable. The department must  
30 assess interest but not penalties on the taxes against which the credit  
31 was claimed. Interest is assessed at the rate provided for delinquent  
32 excise taxes under chapter 82.32 RCW retroactively to the date the  
33 credit was claimed and accrues until the taxes against which the credit  
34 was claimed are repaid.

35 (8) The legislature intends to achieve the following performance  
36 milestones as a result of the tax preference created in this section:

37 (a) Increased utilization of available tax credits at a growth rate  
38 of five percent each year for the first five years of the program; and

1 (b) Improved ability of consumers, regardless of their ability to  
2 pay upfront for the full capital costs of a renewable energy system, to  
3 install renewable energy systems on their real property. This  
4 milestone must be tracked by requiring those applying to receive  
5 incentive payments for a system owned or financed by a third party to  
6 indicate in their application whether they would have had the financial  
7 ability to fully fund the upfront installation costs for a system if  
8 systems leased from third-party owners had not been eligible to receive  
9 the incentive.

10 (9)(a) In the calendar year preceding the expiration of this  
11 section, the joint legislative audit and review committee must report  
12 to the legislature on the effectiveness of the program in achieving the  
13 objectives described in subsection (8) of this section.

14 (b) Upon request of the joint legislative audit and review  
15 committee, the department of revenue and other agencies must cooperate  
16 by providing any data or information requested.

17 (10)(a) The qualifying utility must provide the customer on whose  
18 premises a solar energy system is being installed a contract that  
19 includes, but is not limited to, the following information:

20 (i) A guarantee of the minimum annual kilowatt-hours that the  
21 system will generate for the entire term of the contract;

22 (ii) In the case of a lease, a clear payment schedule with a total  
23 amount, inclusive of all fees, costs, and other charges, listed for  
24 each month and for each year of the entire term of the lease agreement;

25 (iii) An acknowledgment that the utility is responsible for system  
26 installation, repairs, and monitoring for the duration of the  
27 agreement;

28 (iv) Protections against damage to the customer's property caused  
29 by the system, its installation, and removal, including a clear  
30 statement of whose responsibility it is to pay any costs associated  
31 with restoring the customer's property to its original condition after  
32 removal of the system at the end of the lease term; and

33 (v) A disclosure of the terms and conditions governing when the  
34 property is sold or transferred.

35 (b) A qualifying utility must provide the customer a separate  
36 document with an easy to read, nontechnical summary of the provisions  
37 required under (a) of this subsection.

1 (c) The qualifying utility must compile and make available to the  
2 joint legislative audit and review committee a report of the average  
3 price per kilowatt-hour of electricity generated by the systems  
4 authorized in this section, as compared to the average price per  
5 kilowatt-hour of electricity generated by systems that received or are  
6 receiving the incentive under RCW 82.16.120.

7 (11) After December 31, 2015, if in compliance with other  
8 applicable law or rule, the agency designated by the governor may  
9 authorize renewable energy systems owned by third parties other than  
10 utilities to qualify for the incentives created under RCW 82.16.120.  
11 Nonutility third-party owners of renewable energy systems may only be  
12 authorized to receive the incentives if, in the agency's determination,  
13 based on objective criteria, such ownership is consistent with the  
14 legislature's objectives as established in section 2 of this act and  
15 subsection (1) of this section. The agency, in making its  
16 determination, must hold meetings with interested parties, and provide  
17 notice and an opportunity for public comment.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 80.28 RCW  
19 to read as follows:

20 (1)(a) Upon request by an electrical company, the commission may  
21 approve a tariff allowing the company to recover its costs from  
22 acquiring, installing, operating, and maintaining cost-effective  
23 distributed solar energy systems at the premises of retail electric  
24 customers of the company.

25 (b) The cost basis for a distributed solar energy system must  
26 include, but may not be limited to:

27 (i) A fair return on common equity equal to the return that the  
28 commission has authorized for the company's other capital assets;

29 (ii) The cost of debt incurred for investments made in the  
30 acquisition, installation, operation, and maintenance of distributed  
31 solar energy systems; and

32 (iii) Any reasonable incentive the company may offer to a retail  
33 electric customer to secure the right to place a distributed solar  
34 energy system on their premises.

35 (c) Costs incurred by the company to acquire, install, operate, and  
36 maintain a distributed solar energy system must be offset by:

1 (i) The value of an investment cost recovery incentive payable to  
2 the company under sections 5 and 6 of this act;

3 (ii) The estimated value of renewable energy credits produced by  
4 distributed solar energy systems owned by the company; and

5 (iii) The value of any other state and federal tax credits that may  
6 accrue to the company from the production of energy from a distributed  
7 solar energy system.

8 (d) If the company determines that a customer or class of customers  
9 should contribute a reasonable amount to the electrical utility's cost  
10 of acquiring, installing, operating, and maintaining a distributed  
11 solar energy system in order for the system to be cost-effective, it  
12 may specify the amount of the contribution in its tariff. The  
13 commission may approve or deny the company's request to include a  
14 customer contribution in the tariff, or revise the contribution  
15 requirement to an amount that will not increase financial risk to the  
16 company's shareholders or other customers. The commission may only  
17 deny the request for a customer contribution upon a finding that the  
18 tariff is fair, just, reasonable, and sufficient without the customer  
19 contribution requirement.

20 (e)(i) Once the company has recovered its costs under the tariff,  
21 the distributed solar energy system is no longer necessary and useful  
22 to the company pursuant to RCW 80.12.020. The tariff must specify the  
23 terms and conditions, including guidelines for establishing a fair  
24 market value, under which a customer may purchase the distributed solar  
25 energy system located at its premises after the company has recovered  
26 its costs under the tariff. Once the company has recovered its costs  
27 under the tariff, it may convey ownership of a distributed solar energy  
28 system without cost to a retail electric customer who has made a  
29 contribution under (d) of this subsection.

30 (ii) Any payments received by a company from the sale of  
31 distributed solar energy systems must be deposited in a segregated  
32 account to be used by the company to supplement any other measures it  
33 may use under (c) of this subsection to offset costs incurred by the  
34 company to acquire, install, operate, and maintain a distributed solar  
35 energy system.

36 (2) A distributed solar energy system that has been installed  
37 pursuant to this section is not eligible for net metering under chapter  
38 80.60 RCW while the system is owned by the company.

1 (3) For the purposes of this section:

2 (a) "Cost-effective" means, at the time a distributed solar energy  
3 system is placed in the rate base, the distributed solar energy system  
4 is reasonably expected to generate energy at a total incremental system  
5 cost, per unit of energy delivered to end use, that is less than, or  
6 equal to, the comparable cost from the lowest reasonable cost eligible  
7 renewable resource, as identified in the company's last completed  
8 integrated resource plan under chapter 19.280 RCW, considering:

9 (i) The value of an investment cost recovery incentive payable to  
10 the company under RCW 82.16.120;

11 (ii) The estimated value of renewable energy credits produced by  
12 distributed solar energy systems owned by the company;

13 (iii) The value of any other state and federal tax credits that may  
14 accrue to the company from the production of energy from a distributed  
15 solar energy system; and

16 (iv) The financial contribution that may be required from a  
17 customer pursuant to subsection (1)(d) of this section.

18 (b) "Distributed solar energy system" means any device or  
19 combination of devices or elements that relies upon direct sunlight as  
20 an energy source for use in the generation of electricity and has an  
21 electrical generating capacity of not more than five kilowatts, when  
22 the meter holder is a residential retail electric customer, and not  
23 more than one hundred kilowatts, when the meter holder is a commercial  
24 retail electric customer.

25 (c) "Eligible renewable resource" has the same meaning as defined  
26 under RCW 19.285.030.

27 (4) This section expires December 31, 2020.

28 NEW SECTION. **Sec. 7.** If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
33 preservation of the public peace, health, or safety, or support of the  
34 state government and its existing public institutions, and takes effect

1 July 1, 2013.

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