

# SENATE BILL REPORT

## ESSB 6658

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As Amended by House, March 11, 2010

**Title:** An act relating to modifying community solar project provisions for investment cost recovery incentives.

**Brief Description:** Modifying community solar project provisions for investment cost recovery incentives.

**Sponsors:** Senate Committee on Environment, Water & Energy (originally sponsored by Senators Rockefeller, Morton and Pridemore).

**Brief History:**

**Committee Activity:** Environment, Water & Energy: 1/22/10, 2/02/10 [DPS].

Passed Senate: 2/16/10, 48-0.

Passed House: 3/11/10, 96-1.

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Majority Report:** That Substitute Senate Bill No. 6658 be substituted therefore, and the substitute bill do pass.

Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Marr, Morton, Ranker and Sheldon.

**Staff:** William Bridges (786-7416)

**Background:** Cost-Recovery Incentive Program for Renewable Energy Systems. In 2005 the Legislature created a cost-recovery incentive program to promote renewable energy systems that produce electricity from solar, wind, or anaerobic digesters. An individual, business, or local government purchasing an eligible system can apply for an incentive payment from the electric utility serving the applicant. The incentive provides at least 15 cents for each kilowatt-hour (kWh) of energy produced, with extra incentives for solar generating systems that use components manufactured in Washington. Payments are capped at \$2,000 annually per applicant.

In 2009 the Legislature expanded the program to include, among other things, community solar projects, which are either: (1) a solar energy system owned by local individuals, households, or nonutility businesses that is placed on the property owned by their cooperating local governmental entity; or (2) a utility-owned solar energy system that is

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voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project. Community solar projects are eligible for incentives of 30 cents for each kWh of energy produced. Each applicant in a community solar project is eligible for annual incentives up to \$5,000 per year.

During the rulemaking to implement the new community solar provisions, the Department of Revenue concluded that community solar projects established by limited liability companies (LLCs) could not receive more than one incentive payment.

**Summary of Engrossed Substitute Bill:** Capping the eligibility of community solar projects. Only community solar projects with a maximum instantaneous output of 100 kilowatts (kW) of electricity or less are eligible to receive cost-recovery incentive payments; however, community solar projects that have received all required government permits and begin construction by December 31, 2010, may have a capacity greater than 100 kW.

Requiring cost-recovery projects to be located in Washington. All renewable projects participating in the cost recovery incentive program must be located in Washington.

Requiring owners of community solar projects to delegate one owner as a single point of contact. Owners of a community solar project that are not an LLC must appoint one owner as an administrator who is responsible for applying and receiving cost recovery incentive payments on behalf of the other owners.

Allowing participants in community solar projects owned by LLCs to receive incentive payments. An LLC owning a community solar project may submit one incentive application on behalf of each member of the company. Each member of the LLC is eligible for an incentive payment up to \$5,000 per year. It is clarified that an LLC-owned community solar project must be installed on the property of a cooperating local governmental entity that is not an electric or natural gas utility.

Clarifying the amount of incentive payments to owners of community solar projects. Owners of a community solar project are only entitled to incentive payments in proportion to each ownership share.

Creates hold-harmless provisions protecting utilities. The owners of community solar projects must hold harmless the utility and its employees for their good faith reliance on the information in a cost recovery application or certification. In addition, the utility and its employees are immune from civil liability for their good faith reliance on the information contained in such documents.

Technical changes are made.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: Recognition of LLCs will allow investors to take full advantage of federal renewable energy incentives. PSE supports the bill and will submit language for streamlining administration of the program. Allowing LLCs to participate in community solar system will lead to wider deployment of solar energy with long-term benefits for the economy and the environment.

Plain language should be used in the bill or else the community solar provisions could be misinterpreted. Cooperatives should be allowed to participate in community solar projects. Community solar allows the disenfranchised segment of society a chance to put their money where their values are and use the state's progressive solar incentives. Clarifications are suggested to the MW cap. Other corporate forms should be recognized and a limitation to Washington residents should be added. The current provision requiring that incentive payments be proportionally reduced if requests exceed the fund should be removed.

OTHER: Clarifications are needed for the requirements concerning utility-owned community solar projects.

**Persons Testifying:** PRO: Aron Campbell, Campbell Energy & Zohm Energy; Joe Deets, Community Energy Solutions; Denny Eliason, PSE; Jason Keyes, Solar Washington.

OTHER: Kathleen Collins, PacifiCorp; Collins Sprague, Avista.

**Signed In, Unable to Testify & Submitted Written Testimony:** PRO: Chris Herman, Winter Sun Design; Stanley Florek, Tangerine Solar; Trevor Tregellas, Daylight Investments; Michael Williams, Zohm Energy.

**House Amendment(s):** All provisions relating to virtual net metering are removed. The maximum electric generating capacity of a community solar project is reduced from 100 kW to 75 kW. Mutual associations, cooperatives, and LLCs may own community solar systems, but the provision concerning LLC-owned community solar systems that begin construction by December 31, 2010, is removed. The total public utility tax credit an electric utility is allowed under the cost-recovery incentive program is reduced from 1 percent of taxable sales to .5 percent. A cap for incentive payments to participants in company-owned community solar projects is set at 5 percent of the total allowable public utility tax credit. Owners of community solar projects must keep five-year records of the incentive amounts applied for and received. The Department of Revenue must report to the appropriate committees of the legislature by December 1, 2014, on various impacts of cost-recovery incentive payment program.