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HOUSE BILL 3104

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By Representative Rolfes

Read first time 01/25/10. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to modifying community solar project provisions for  
2 investment cost recovery incentives; and amending RCW 82.16.110 and  
3 82.16.120.

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

5 **Sec. 1.** RCW 82.16.110 and 2009 c 469 s 504 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1)(a) "Community solar project" means:

10 (i) A solar energy system that produces a maximum instantaneous  
11 power output of two megawatts of electricity and is owned by local  
12 individuals, households, nonprofit organizations, or nonutility  
13 businesses that is placed on the property owned by a cooperating local  
14 governmental entity that is not in the light and power business or in  
15 the gas distribution business; or

16 (ii) A utility-owned solar energy system that produces a maximum  
17 instantaneous power output of two megawatts of electricity and that is  
18 voluntarily funded by the utility's ratepayers where, in exchange for

1 their financial support, the utility gives contributors a payment or  
2 credit on their utility bill for the value of the electricity produced  
3 by the project; or

4 (iii) A solar energy system that produces a maximum instantaneous  
5 power output of two megawatts of electricity and is owned by a limited  
6 liability company whose members are each eligible for an investment  
7 cost recovery incentive for the same customer-generated electricity as  
8 provided in RCW 82.16.120.

9 (b) For the purposes of "community solar project" as defined in (a)  
10 of this subsection:

11 (i) "Nonprofit organization" means an organization exempt from  
12 taxation under ((Title)) 26 U.S.C. Sec. 501(c)(3) of the federal  
13 internal revenue code of 1986, as amended, as of January 1, 2009; and

14 (ii) "Utility" means a light and power business, an electric  
15 cooperative, or a mutual corporation that provides electricity service.

16 (2) "Customer-generated electricity" means a community solar  
17 project or the alternating current electricity that is generated from  
18 a renewable energy system located on an individual's, businesses', or  
19 local government's real property that is also provided electricity  
20 generated by a light and power business. Except for community solar  
21 projects, a system located on a leasehold interest does not qualify  
22 under this definition. Except for utility-owned community solar  
23 projects, "customer-generated electricity" does not include electricity  
24 generated by a light and power business with greater than one thousand  
25 megawatt hours of annual sales or a gas distribution business.

26 (3) "Economic development kilowatt-hour" means the actual kilowatt-  
27 hour measurement of customer-generated electricity multiplied by the  
28 appropriate economic development factor.

29 (4) "Local governmental entity" means any unit of local government  
30 of this state including, but not limited to, counties, cities, towns,  
31 municipal corporations, quasi-municipal corporations, special purpose  
32 districts, and school districts.

33 (5) "Photovoltaic cell" means a device that converts light directly  
34 into electricity without moving parts.

35 (6) "Renewable energy system" means a solar energy system, an  
36 anaerobic digester as defined in RCW 82.08.900, or a wind generator  
37 used for producing electricity.

1 (7) "Solar energy system" means any device or combination of  
2 devices or elements that rely upon direct sunlight as an energy source  
3 for use in the generation of electricity.

4 (8) "Solar inverter" means the device used to convert direct  
5 current to alternating current in a photovoltaic cell system.

6 (9) "Solar module" means the smallest nondivisible self-contained  
7 physical structure housing interconnected photovoltaic cells and  
8 providing a single direct current electrical output.

9 **Sec. 2.** RCW 82.16.120 and 2009 c 469 s 505 are each amended to  
10 read as follows:

11 (1) Any individual, business, local governmental entity, not in the  
12 light and power business or in the gas distribution business, or a  
13 participant in a community solar project may apply to the light and  
14 power business serving the situs of the system, each fiscal year  
15 beginning on July 1, 2005, for an investment cost recovery incentive  
16 for each kilowatt-hour from a customer-generated electricity renewable  
17 energy system. In the case of a community solar project as defined in  
18 RCW 82.16.110(1)(a)(iii), the limited liability company owning the  
19 community solar project must apply for the investment cost recovery  
20 incentive on behalf of each member of the limited liability company.  
21 No incentive may be paid for kilowatt-hours generated before July 1,  
22 2005, or after June 30, 2020.

23 (2)(a) Before submitting for the first time the application for the  
24 incentive allowed under subsection (4) of this section, the applicant  
25 must submit to the department of revenue and to the climate and rural  
26 energy development center at the Washington State University,  
27 established under RCW 28B.30.642, a certification in a form and manner  
28 prescribed by the department that includes, but is not limited to, the  
29 following information:

30 (i) The name and address of the applicant and location of the  
31 renewable energy system. If the applicant is a limited liability  
32 company that owns a community solar project as defined in RCW  
33 82.16.110(1)(a)(iii), the certification must also include the name and  
34 address of each member of the limited liability company;

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

36 (iii) That the electricity produced by the applicant meets the

1 definition of "customer-generated electricity" and that the renewable  
2 energy system produces electricity with:

3 (A) Any solar inverters and solar modules manufactured in  
4 Washington state;

5 (B) A wind generator powered by blades manufactured in Washington  
6 state;

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

8 (D) A solar module manufactured in Washington state; or

9 (E) Solar or wind equipment manufactured outside of Washington  
10 state;

11 (iv) That the electricity can be transformed or transmitted for  
12 entry into or operation in parallel with electricity transmission and  
13 distribution systems;

14 (v) The date that the renewable energy system received its final  
15 electrical permit from the applicable local jurisdiction.

16 (b) Within thirty days of receipt of the certification the  
17 department of revenue must notify the applicant by mail, or  
18 electronically as provided in RCW 82.32.135, whether the renewable  
19 energy system qualifies for an incentive under this section. The  
20 department may consult with the climate and rural energy development  
21 center to determine eligibility for the incentive. System  
22 certifications and the information contained therein are subject to  
23 disclosure under RCW 82.32.330(3)(m).

24 (3)(a) By August 1st of each year application for the incentive  
25 shall be made to the light and power business serving the situs of the  
26 system by certification in a form and manner prescribed by the  
27 department that includes, but is not limited to, the following  
28 information:

29 (i) The name and address of the applicant and location of the  
30 renewable energy system. If the applicant is a limited liability  
31 company that owns a community solar project as defined in RCW  
32 82.16.110(1)(a)(iii), the application must also include the name and  
33 address of each member of the limited liability company;

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

35 (iii) The date of the notification from the department of revenue  
36 stating that the renewable energy system is eligible for the incentives  
37 under this section;

1 (iv) A statement of the amount of kilowatt-hours generated by the  
2 renewable energy system in the prior fiscal year.

3 (b) Within sixty days of receipt of the incentive certification the  
4 light and power business serving the situs of the system shall notify  
5 the applicant in writing whether the incentive payment will be  
6 authorized or denied. The business may consult with the climate and  
7 rural energy development center to determine eligibility for the  
8 incentive payment. Incentive certifications and the information  
9 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

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

23 (ii) If it appears that the amount of incentive paid is less than  
24 the correct amount of incentive payable the business may authorize  
25 additional payment.

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

36 (a) For customer-generated electricity produced using solar modules  
37 manufactured in Washington state, two and four-tenths;

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

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

7 (d) For all other customer-generated electricity produced by wind,  
8 eight-tenths.

9 (5)(a) No individual, household, business, or local governmental  
10 entity is eligible for incentives provided under subsection (4) of this  
11 section for more than five thousand dollars per year.

12 (b) Except as provided in (c) of this subsection (5), each  
13 applicant in a community solar project is eligible for up to five  
14 thousand dollars per year.

15 (c) Where the applicant is a limited liability company owning a  
16 community solar project that has applied for an investment cost  
17 recovery incentive on behalf of its members, each member of the limited  
18 liability company is eligible for the incentive that would otherwise  
19 belong to the limited liability company, up to five thousand dollars  
20 per year, and the limited liability company is not eligible for  
21 incentives under this section.

22 (6) If requests for the investment cost recovery incentive exceed  
23 the amount of funds available for credit to the participating light and  
24 power business, the incentive payments (~~shall~~) must be reduced  
25 proportionately.

26 (7) The climate and rural energy development center at Washington  
27 State University energy program may establish guidelines and standards  
28 for technologies that are identified as Washington manufactured and  
29 therefore most beneficial to the state's environment.

30 (8) The environmental attributes of the renewable energy system  
31 belong to the applicant, and do not transfer to the state or the light  
32 and power business upon receipt of the investment cost recovery  
33 incentive.

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