

# SENATE BILL REPORT

## E2SHB 1144

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As of March 16, 2011

**Title:** An act relating to renewable energy investment cost recovery program.

**Brief Description:** Concerning renewable energy investment cost recovery program.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives McCoy, Crouse, Eddy, Morris, Haler, Kelley, Lias, Jacks, Frockt and Hudgins).

**Brief History:** Passed House: 3/03/11, 96-0.

**Committee Activity:** Environment, Water & Energy: 3/15/11.

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

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

**Background:** Renewable Energy Cost-Recovery Incentive Program. In 2005 the Legislature created a Renewable Energy Cost-Recovery Incentive Program (Cost-Recovery Program) to promote renewable energy systems located in Washington that produce electricity from solar, wind, or anaerobic digesters. An individual, business, or local government purchasing an eligible system may apply for an incentive payment from the electric utility serving the applicant. The incentive provides at least \$0.15 for each kilowatt-hour (kWh) of electricity produced, with extra incentives for solar or wind generating systems that use certain components manufactured in Washington.

Cost-Recovery Program Incentive Limits. Incentive payments are capped at \$5,000 annually per applicant. A utility providing incentive payments is allowed a credit against its public utility tax for incentives paid, limited to \$100,000 or 0.5 percent of its taxable power sales, whichever is greater. If the amount of incentive requests exceeds the amount of funds available to the participating utility, the incentive payments must be reduced proportionally.

Incentive payments to participants in a utility-owned community solar project may only account for up to 25 percent of the total allowable credit. Incentive payments to participants in a company-owned community solar project may only account for up to 5 percent of the total allowable credit.

The Cost-Recovery Program expires June 30, 2020.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Community Solar Projects. In 2009 the Legislature expanded the Cost-Recovery Program to include community solar projects. Community solar projects are defined as either (1) a solar energy system owned by local individuals, households, or non-utility businesses that is placed on the property owned by their cooperating local government entity; (2) a utility-owned solar energy system that is 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; or (3) a solar energy system owned by a company that is not an electric or gas utility (i.e. limited liability company, cooperative, or mutual corporation or association) that is placed on the property owned by a cooperating local government entity.

Community solar projects are eligible to receive incentives of \$0.30 for each kWh of electricity produced. Community solar projects may not have a generating capacity greater than 75 kWh. Payments to a community solar project are capped at \$5,000 annually per applicant.

Affordable Housing Program. The Department of Commerce administers the Housing Assistance Program and the Affordable Housing Program. Both of these programs, commonly referred to as the Housing Trust Fund (HTF), provide loans and grants to eligible organizations to provide housing for low-income and special needs populations. HTF is available to fund acquisition, new construction, and rehabilitation of low-income housing units. HTF is primarily funded through a combination of bond appropriations and HTF loan repayments appropriated in the state's capital budget.

Washington State Housing Finance Commission. The Washington State Housing Finance Commission (HFC) was created by the Legislature to assist in making affordable housing available throughout the state. Federal law authorizes state housing finance agencies to issue tax-exempt revenue bonds to fund low-cost housing assistance.

Washington State University Extension Energy Program (WSU). WSU provides technical expertise to the Washington State Department of Revenue in certifying renewable energy systems that qualify for the Cost-Recovery Program. Additionally, WSU is responsible for establishing guidelines and standards for technologies that are identified as Washington manufactured under the Cost-Recovery Program.

**Summary of Bill:** Allowing Certain Nonprofits to Own and Host Community Solar Projects. Nonprofit housing organizations may own community solar projects. In addition, a community solar project may be placed on the property owned by a nonprofit organization or nonprofit housing organization if the organizations are not electric or gas utilities.

A nonprofit housing organization is an entity that is (1) eligible for assistance under the state Affordable Housing Program; and (2) materially participating as a managing member of a limited liability company, general partner of a partnership, or as an equivalent organization for the purposes of accessing assistance from the HFC.

Adding Stirling Converters to the Cost-Recovery Program. Individuals, businesses, local governments, or community solar project participants that generate electricity from a stirling converter manufactured in Washington are eligible to receive an incentive payment for each

kWh produced. The incentive payment rate is \$0.15 per kWh multiplied by a factor of 2.4. A Stirling converter is a device that produces electricity by converting heat from a solar source using a Stirling engine.

Creating an Incentive for Solar Inverter Systems Assembled In Washington. An applicant may receive incentive payments of \$0.15 per kWh multiplied by a factor of 1.2 for Washington-assembled solar inverter systems. A solar-inverter system means a device assembled at the manufacturing facility and ready for installation as part of a solar energy system. A solar-inverter system must contain a solar inverter and, at a minimum, alternating current and direct current disconnects.

Raising the Limits for Incentive Payments for Company-Owned Community Solar Projects. The limit for annual incentive payments to participants in a company-owned community solar project is raised from \$5,000 to \$25,000.

Changing the Caps for Cost-Recovery Incentive Payments. The cap for incentive payments to participants in utility-owned community solar projects is lowered from 25 percent of the total allowable credit to 15 percent. The cap for incentive payments to participants in company-owned projects is raised from 5 percent of the total allowable credit to 15 percent. A utility-owned project and a company-owned project must share up to 30 percent of the total allowable credit, if these projects receive incentive payments from a light and power business providing electrical service solely within a county with a population between 39,000 and 43,500.

If requests for incentive payments exceed the amount of funds available for credit to the participating utility, no new applications may be approved, except for utilities providing service within a county with a population between 39,000 and 43,500, which must reduce payments proportionally.

Allowing a Local Government Hosting a Community Solar Project to Purchase the Project. A local government entity that hosts a community solar project on its property has the option of purchasing the solar energy system from the owner at fair market value after the expiration of the cost-recovery program. The fair market value must take into consideration the following: (1) the energy production from the solar energy system over its remaining useful life; (2) the cost of the lease for the property that the solar energy system is located; and (3) maintenance, insurance, and cost of removal of the solar energy system if the host facility decides not to renew the lease.

Allowing WSU to Charge a Fee. WSU may charge a fee for services to cover the cost of processing applications and related technical assistance to administer the cost-recovery program. The fee may not exceed fair and reasonable costs associated with the necessary and effective oversight of the cost recovery program.

**Appropriation:** None.

**Fiscal Note:** Revised fiscal note requested on March 5, 2011.

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

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

**Staff Summary of Public Testimony:** PRO: Since the legislation passed in 2005, one solar manufacturing company has doubled its work force and other companies are coming to the state. Reallocating the utility-owned and company-owned caps to 15 percent each is a fair division, respectful to the different types of investors. Higher education institutions and wind power were removed from the bill because of fiscal concerns; perhaps they can be added to the program at a future date. There is a wind turbine manufacturer in Spokane, yet there is no in-state manufacturing multiplier favoring that technology; there should be a multiplier equal to solar module manufacturing. The multiplier for small wind that was in the original bill should be added back in. Adding Stirling converters levels the playing field with other solar technologies. The sales tax exemption for small renewable energy equipment will expire in 2013, so a multiplier for small wind could be used to offset that loss. Higher education should be added back into the bill. The renewable energy cost recovery program supports 21 jobs at Silicon Energy plus 80 contractors. It is also a key to developing the solar market in Washington and a means of helping consumers maximize federal tax incentives. The provision concerning utility-owned community solar projects should be amended to recognize co-op members in addition to ratepayers. Changes to the utility-owned community solar provision will help investors avoid the complications associated with locating a renewable system on property owned by a local government. Allowing food banks to own and host community solar projects would help reduce their operating costs. Increasing the allowable incentives from \$5,000 to \$25,000 for investors of company-owned community solar projects is not necessary for the success of the program, and can hurt it by benefiting the few over the many. Allowing WSU to charge an application fee will hurt the solar installers. The provision describing how fair market value must be calculated is not necessary. The requirement that the administrator of a community solar project be an owner should be removed because there is no practical reason for this requirement. Incentive caps for both company-owned and utility-owned projects should be combined at 30 percent. Add a provision recognizing inverters that provide single direct or alternating current. Include a provision that in-state manufactured solar equipment must be recognized by a nationally recognized testing laboratory. Provision should be added making it clear that owners of a community solar project are responsible for the cost of insurance, maintenance, and removal. There should be a requirement that investors in community solar projects be residents of Washington.

OTHER: Increasing the allowable incentives from \$5,000 to \$25,000 for investors of company-owned community solar projects would favor big investors over regular consumers. It would also allow as few as three investors to set up a community solar project, which is not really a community. Increasing the allowable incentives to \$25,000 would favor larger projects that would be given a higher priority for the limited number of in-state modules. The bill has no requirements concerning the use of in-state installers. Rewarding the assembly of inverters would discourage true manufacturing in the state. There should be a requirement that inverters be UL listed. We concur with reallocating the utility-owned and company-owned caps to 15 percent but oppose consolidating the two categories into a first come, first served 30 percent; such a change would favor company-owned projects and could allow 17 investors to use up all of Seattle City Light's allocation for these projects.

**Persons Testifying:** PRO: Rep. McCoy, prime sponsor; Corey Arnold, MC Energy LLC; Robert Bettis, MD, Steve Milner, Stan Morse, Mike Nelson, citizens; Zack Butler, Global Green Energy Corp.; Robert Coit, Thurston County Foodbank; Lee Lambert, Shoreline Community College; Frederic Liebrand, Walla Walla University; Richard Phillips, Puresolar Inc.; Kelly Samson, Samson Family Land Co.; Gary Shaver, Silicon Energy; Jerry Smedes, Infinia Corp.; Ted Thomas, NW Windpower LLC.

OTHER: Joe Deets, Community Energy Solutions; Rose Feliciano, Seattle City Light; Bill Hoffer, Sunergy Engineer Services; Gary Nystedt, City of Ellensburg.