

# HOUSE BILL REPORT

## HB 1105

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**As Reported by House Committee On:**  
Environment

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

**Brief Description:** Modifying the renewable energy cost recovery program.

**Sponsors:** Representatives McCoy, Morris, Wylie, Ryu and Pollet.

**Brief History:**

**Committee Activity:**

Environment: 2/13/13, 2/21/13 [DPS].

**Brief Summary of Substitute Bill**

- Closes the current Renewable Energy Investment Cost Recovery Program (Current Program) to new applicants beginning on July 1, 2014.
- Allows any entity receiving incentive payments under the Current Program to continue to receive payments until July 1, 2020.
- Creates a new Renewable Energy Investment Cost Recovery Program (New Program) on July 1, 2014.
- Specifies that electric utilities participating in the New Program must offer 10-year contracts for the payment of incentives.

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### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Upthegrove, Chair; McCoy, Vice Chair; Crouse, Farrell, Fey, Kagi, Lias, Morris and Tharinger.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Short, Ranking Minority Member; Pike, Assistant Ranking Minority Member; Nealey and Overstreet.

**Staff:** Scott Richards (786-7156).

**Background:**

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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.*

### Renewable Energy Investment Cost Recovery Program.

In 2005 the Legislature created a Renewable Energy Cost Recovery Incentive Program (Current Program) to promote installation of renewable energy systems in Washington. These are systems that produce electricity from solar, wind, or anaerobic digesters. An individual, business, local government, or community solar project that owns and operates an eligible system may apply to receive incentive payments from the applicant's electric utility. These payments help subsidize the additional cost incurred by generating electricity from the renewable energy system. The utility, referred to in statute as the "light and power business," in turn receives a tax credit from the Department of Revenue equal to the incentive payments made.

### Community Solar Projects.

In 2009 the Current Program was expanded to provide incentives for "community solar projects." Community solar projects include: (1) solar energy systems placed on local government property that are owned by local individuals, households, or non-utility businesses; (2) utility-owned solar energy systems voluntarily funded by the utility's ratepayers in exchange for credits on their utility bills; and (3) company-owned solar energy systems, where the owner is a limited liability company, a cooperative, or a mutual corporation or association. The electrical generation capacity of a community solar project is limited to 75 megawatts.

### Payments.

Light and power businesses are responsible for providing incentive payments to the owners of eligible systems. Incentive payments are capped at \$5,000 annually per applicant and must be applied for annually. For each kilowatt-hour (kW-hr) of energy produced, an eligible system owner can receive incentive payments of at least 15 cents per kilowatt (kW) generated, and community solar projects are eligible to receive incentives of at least 30 cents per kW generated. To promote the use of equipment manufactured in Washington, extra production incentives are available, depending upon which components are manufactured in Washington.

### Cap on Total Credits Available.

A light and power business is allowed a credit against its public utility tax (PUT) for incentives paid, capped annually at \$100,000 or 0.5 percent of its taxable power sales, whichever is greater. If the amount of requests for incentive payments exceeds the amount of funds available for PUT credit to the utility, the incentive payments to applicants 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.

### Measuring and Reporting Electricity Production.

Each year, a participant in the Current Program must reapply for the incentive, providing a statement of the amount of kW-hrs generated by the system in the prior fiscal year. The energy output is measured by a production meter that records the amount of electricity generated.

### Duration of Program.

The Current Program expires June 30, 2020.

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**Summary of Substitute Bill:**

Current Renewable Energy Investment Cost Recovery Program.

The current Renewable Energy Investment Cost Recovery Program (Current Program) is closed to new applicants after July 1, 2014. No incentive may be paid for kilowatt-hours (kW-hrs) generated after June 30, 2014, except that any entity receiving incentive payments on the effective date of the act may continue to receive payments until July 1, 2020.

*Participation in the Current Cost Recovery Program.*

Federally recognized Indian tribes, community and technical colleges, and nonprofit organization may participate in the Current Program as a host of a community solar project. Federally recognized Indian tribes are eligible to participate in the Current Program as an owner of a renewable energy system.

*Application Process for Annual Incentive Payments.*

An applicant is required to submit an initial, one-time application for an incentive payment, rather than having to reapply annually as required under current law. In the years following the initial application, a participant must provide to its electric utility an annual statement of the amount of kW-hrs generated by the renewable energy system in the prior year.

*Continuation of Incentive Payments for Participants in Certain Community Solar Projects.*

Participants in a community solar project, that is not utility-owned community solar project, who have been deemed in compliance and received payment under the Current Program prior to December 31, 2012, may continue to receive incentive payments through July 1, 2020.

*Public Utility Tax Credit.*

The right for a power and light business to earn Public Utility Tax (PUT) credits under the Current Program expires on July 1, 2020, rather than June 30, 2020.

New Renewable Energy Investment Cost Recovery Program.

A Renewable Energy System Cost Recovery Incentive Program (New Program) is created. The New Program is administered by the Washington State Housing Finance Commission (Commission). Utility participation in the New Program is voluntary. A utility has the same meaning as a light and power business under the Current Program.

Beginning July 1, 2014, any person, other than a utility or a gas distribution business, who owns a customer-generated electricity renewable energy system, or a participant in a community solar project, may apply for cost recovery incentives. A person is defined as an individual, business, federally recognized Indian tribe, local government entity, community and technical college, nonprofit organization, or a participant in a community solar project as currently defined in statute.

Utilities participating in the New Program must offer 10-year contracts for the payment of incentives. If the PUT credit available to electric utilities for participating in the Current

Program is eliminated, payments made by utilities to program participants are discontinued and no new 10-year contracts for the incentive may be offered by the utilities. If the PUT credit available to electric utilities is reduced, incentive payments made by utilities to program participants must be reduced in proportion to the reduction of credits. Contracts offered by utilities to program applicants must include a provision that notifies the applicant that future incentive payments may be eliminated or reduced due to the elimination or reduction of the PUT credit.

*Timeframe for Incentive Payments.*

No incentive may be paid for kW-hrs generated before July 1, 2014, or after June 30, 2024, except that a person receiving payments under a 10-year contract may receive payments until July 1, 2034, or until the end of the contract, whichever is sooner.

*Incentive Rate.*

The incentive is 15 cents per kW-hr generated unless requests exceed the amount authorized for credit to the participating utility. For community solar projects, the incentive is 20 cents per kW-hr generated unless requests exceed the amount authorized for credit to the participating utility.

The rate paid for the incentive must be multiplied by the following factors:

- for customer-generated electricity produced using solar modules manufactured in Washington or a solar stirling converter manufactured in Washington, 2.4;
- for customer-generated electricity produced using a solar or wind generator equipped with an inverter manufactured in Washington, 1.2;
- for customer-generated electricity produced using an anaerobic digester, other solar equipment, or a wind generator equipped with blades manufactured in Washington, 1.0 ; and
- for all other customer-generated electricity produced by wind, 0.8.

*Maximum Annual Incentive Payments.*

No person is eligible for incentives of more than \$5,000 per year. In the case of a utility-owned community solar project, each ratepayer that contributes to the project is eligible for an incentive in proportion to the contribution, up to \$5,000 per year.

*Initial Application Process.*

A person must first apply to the Commission for certification that a customer-generated electricity renewable energy system is eligible to receive an incentive. The certification application may be in a form and manner prescribed by the Commission and must include such information as the name and address of the applicant, location of the renewable energy system, whether the renewable energy system uses certain Washington manufactured components to produce electricity, and the date that the renewable energy system received its final electrical permit from the applicable local jurisdiction. Within 30 days of receipt of the application the Commission must notify the applicant whether the renewable energy system is certified for an incentive.

*Annual Statement of Kilowatt-hours Generated.*

By August 1 of each year after the initial application has been certified, a person must provide a statement in the form of a signed affidavit to the utility serving the situs of the

system of the amount of kW-hrs generated by the renewable energy system in the prior fiscal year. The amount of kW-hrs generated may be determined from a reading of the inverter connected to the system. Within 60 days of receipt of the incentive application the utility serving the situs of the system must notify the applicant in writing whether the application is accepted.

*Washington State Housing Finance Commission.*

The Commission is authorized to fix, revise, and collect fees and charges in connection with the creation and administration of the New Program.

*Washington State University Energy Extension Program.*

When determining if eligible equipment is manufactured in the State of Washington, the Commission must rely on the opinion of the Washington State University Energy Extension Program (Energy Extension Program). Additionally, the Energy Extension Program is directed to establish guidelines for technologies that are identified as Washington manufactured. The Energy Extension Program must use the guidelines when advising the Commission.

*Public Utility Tax Credit.*

Beginning July 1, 2014, a utility is allowed a PUT credit against taxes due in an amount equal to incentive payments made in any fiscal year. The PUT credit for any fiscal year may not exceed 0.5 percent of the utility's taxable power sales or \$250,000, whichever is greater. 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 right to earn PUT credits expires July 1, 2034. Credits may not be claimed after June 30, 2035.

*Renewable Energy Credits.*

The environmental attributes of the renewable energy system belong to the applicant and do not transfer to the state or the utility upon receipt of the incentive. In the case of a utility-owned community solar project, the environmental attributes of the renewable energy system belong to the utility.

**Substitute Bill Compared to Original Bill:**

Current Renewable Energy Investment Cost Recovery Program.

Community and technical colleges and nonprofit organizations may participate in the current Renewable Energy Investment Cost Recovery Program (Current Program) as a host of a community solar project. The annual application process to receive incentive payments is modified to require a one-time, initial application. Once the application has been certified, a person must provide on an annual basis a statement to the utility of the amount of kilowatt-hours (kW-hrs generated by the renewable energy system in the prior fiscal year. The substitute bill provides that participants in a community solar project, that is not a utility-owned community solar project, who have been deemed in compliance and received payments under the Current Program prior to December 31, 2012, may continue to receive incentive payments through July 1, 2020.

New Renewable Energy Investment Cost Recovery Program.

The Washington State Housing Finance Commission (Commission) replaces the Department of Revenue as the lead agency in administering the new Renewable Energy Investment Cost Recovery Program (New Program). The Commission is authorized to fix, revise, and collect fees and charges in connection with the creation and administration of the New Program. The base incentive rate for community solar projects is reduced from 30 cents per kW-hr generated to 20 cents per kW-hr generated, and this rate applies to all community solar projects, not just utility-owned community solar projects. The maximum public utility tax (PUT) credit allowed for smaller electric utilities is increased from \$100,000 to \$250,000. The substitute bill provides that if the PUT credit available to electric utilities is eliminated, payments made by utilities to program participants are discontinued and no new 10-year contracts for the incentive may be offered by the utilities. Also, it specifies that if the PUT credit available to electric utilities is reduced, incentive payments made by electric utilities to program participants must be reduced in proportion to the reduction of credits. The substitute bill requires contracts offered by utilities to program participants to include a provision that notifies the participant that future incentive payments may be eliminated or reduced due to the elimination or reduction of the PUT credit. The annual application process for incentive payments is changed to an initial, one-time application, and on an annual basis, participants in the New Program must provide to the electric utility a statement of the amount of kW-hrs generated by the renewable energy system in the prior fiscal year.

Changes to the Current Program and New Program.

Community solar projects that are not utility-owned community solar projects may now be located on property-owned by a community or technical college or a nonprofit organization.

Corrections are made to dates for which the PUT credit is available to electric utilities.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 22, 2013.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill seeks to fix a number of problems with the current Renewable Energy Investment Cost Recovery Program (Current Program). Also, it allows federally recognized Indian tribes and nonprofit organizations to host community solar projects.

There is a great deal of support in the renewable energy community to move the administration of the Current Program from the Department of Revenue to another entity. Most prefer the Washington State Housing Finance Commission which has considerable experience handling tax credit issues. The 10-year contracts for incentive payments will add more certainty to all those operating in the renewable energy sector.

(Neutral) There needs to be a more effective way to administer the Current Program. For example, the administrator of the Current Program, the Department of Revenue, is limited by confidentiality requirements. These requirements create a situation where stakeholders are not sure what is or is not permissible under the Current Program. The Department of Commerce is prepared to administer the new Renewable Energy Investment Cost Recovery Program (New Program), as provided in the original bill, if the Legislature determines it is the best place for the New Program.

(With concerns) Utilities are concerned that the 10-year contracts will obligate them to continue to make payments to program participants if the state reduces or eliminates the Public Utility Tax credit. There is no guarantee that the state will fund this program in the future. There needs to be a provision added to the bill that grandfathers in current community solar project participants so that they are protected from recent Department of Revenue decisions. There needs to be an initial, one-time application process for incentive payments, not an annual application process.

(Opposed) None.

**Persons Testifying:** (In support) Representative McCoy, prime sponsor; Majken Ryherd, Silicon Energy; and Matt Steuerwalt, Itek Energy.

(Neutral) Tony Usibelli, Department of Commerce.

(With concerns) Bill Moyer, Vashon Community Solar and Backbone Campaign; Kent Lopez, Washington Rural Electric Cooperative Association; and Nancy Atwood, Puget Sound Energy.

**Persons Signed In To Testify But Not Testifying:** None.