
SECOND SUBSTITUTE HOUSE BILL 1301

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, 82.16.130,
3 and 82.16.110; adding a new section to chapter 82.16 RCW; adding new
4 sections to chapter 43.180 RCW; creating a new section; providing an
5 effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that, in order to
8 mitigate the negative consequences of greenhouse gas and particulate
9 air emissions, every state and nation in the world must do its part to
10 develop clean energy technology. The sooner that economies of scale
11 are available for the manufacture and marketing of renewable energy
12 technologies, the sooner these technologies will become cost-
13 competitive or even less expensive than traditional polluting sources
14 of energy. The legislature further finds that the clean technology
15 sector of the economy is one that is growing rapidly, even in a time
16 when other sectors have been stagnant or in a recession. In enacting
17 this act, the legislature intends to attract to Washington a vibrant
18 clean technology sector. The legislature further finds that the tax
19 incentives created in this act can be an important economic development

1 tool, increasing high wage employment both east and west of the Cascade
2 mountains. It is the intent of the legislature, in modifying the
3 existing renewable energy investment cost recovery incentive program,
4 to improve utilization of the incentive by state residents and
5 businesses and streamline program administration. In addition, the
6 legislature seeks to incubate the development of clean energy
7 technology through creation of a competitive application process that
8 awards incentives to projects based on objective performance criteria,
9 including cost-effectiveness, energy efficiency, impact on job
10 creation, and the ability to leverage nonstate funds.

11 **Sec. 2.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to read
12 as follows:

13 (1)(a) Any individual, business, local governmental entity, not in
14 the light and power business or in the gas distribution business, or a
15 participant in a community solar project may apply to the light and
16 power business serving the situs of the system, each fiscal year
17 beginning on July 1, 2005, and ending June 30, 2013, for an investment
18 cost recovery incentive for each kilowatt-hour generated from a
19 customer-generated electricity renewable energy system. No incentive
20 may be paid under this subsection for kilowatt-hours generated before
21 July 1, 2005, or after June 30, 2020.

22 (b) In the case of a community solar project as defined in RCW
23 82.16.110(~~((+2))~~) (3)(a)(i), the administrator must apply for the
24 investment cost recovery incentive on behalf of each of the other
25 owners. (~~((+e))~~) In the case of a community solar project as defined in
26 RCW 82.16.110(~~((+2))~~) (3)(a)(iii), the company owning the community
27 solar project must apply for the investment cost recovery incentive on
28 behalf of each member of the company.

29 (2)(a) (~~((Before submitting for the first time the application for~~
30 ~~the incentive allowed under subsection (4))~~) To qualify for the
31 incentive allowed under subsection (1) of this section, the applicant
32 must submit to the department of revenue and to the climate and rural
33 energy development center at the Washington State University,
34 established under RCW 28B.30.642, (~~((a certification))~~) an application in
35 a form and manner prescribed by the department that includes, but is
36 not limited to, the following information:

1 (i) The name and address of the applicant and location of the
2 renewable energy system.

3 (A) If the applicant is an administrator of a community solar
4 project as defined in RCW 82.16.110(~~(+2)~~) (3)(a)(i), the
5 (~~(certification)~~) application must also include the name and address of
6 each of the owners of the community solar project.

7 (B) If the applicant is a company that owns a community solar
8 project as defined in RCW 82.16.110(~~(+2)~~) (3)(a)(iii), the
9 (~~(certification)~~) application must also include the name and address of
10 each member of the company;

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

12 (iii) That the electricity produced by the applicant meets the
13 definition of "customer-generated electricity" and that the renewable
14 energy system produces electricity with:

15 (A) Any solar inverters and solar modules manufactured in
16 Washington state;

17 (B) A wind generator powered by blades manufactured in Washington
18 state;

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

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

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

22 (F) Solar or wind equipment manufactured outside of Washington
23 state;

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

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

29 (vi) The date that a production meter or other meter capable of
30 determining the system's electricity production within a ninety-eight
31 percent degree of accuracy became operable.

32 (b) Within thirty days of receipt of the (~~(certification)~~)
33 application the department of revenue must notify the applicant by
34 mail, or electronically as provided in RCW 82.32.135, whether the
35 renewable energy system qualifies for an incentive under this section.
36 The department may consult with the climate and rural energy
37 development center to determine eligibility for the incentive. System

1 ((certifications)) applications and the information contained therein
2 are subject to disclosure under RCW 82.32.330(3)(1).

3 ~~(3)(a) ((By August 1st of each year application for the incentive
4 must be made to the light and power business serving the situs of the
5 system by certification in a form and manner prescribed by the
6 department that includes, but is not limited to, the following
7 information:~~

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

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

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

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

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

21 ~~(iv) A statement of the amount of kilowatt hours generated by the
22 renewable energy system in the prior fiscal year.~~

23 ~~(b) Within sixty days of receipt of the incentive certification the
24 light and power business serving the situs of the system must notify
25 the applicant in writing whether the incentive payment will be
26 authorized or denied. The business may consult with the climate and
27 rural energy development center to determine eligibility for the
28 incentive payment. Incentive certifications and the information
29 contained therein are subject to disclosure under RCW 82.32.330(3)(1))~~

30 An applicant, who has qualified to receive the incentive provided in
31 subsection (1) of this section, is a certified participant. Except as
32 provided pursuant to a waiver under (c) of this subsection, by August
33 1st of each year, in order to receive an annual incentive payment, the
34 certified participant must submit to the light and power business
35 serving the situs of the system a statement of the kilowatt-hours
36 generated by the renewable energy system in the prior fiscal year. The
37 statement must be in the form of a sworn affidavit signed by the system
38 owners or, in the case of a community solar project, system

1 administrators. The amount of kilowatt-hours generated by the system
2 over the course of the year may be determined by reading a production
3 meter, or any other meter that is ninety-eight percent accurate,
4 including a meter that reads an inverter connected to the system.

5 (b) Incentive certifications and the information contained therein
6 are subject to disclosure under RCW 82.32.330(3)(1).

7 (c) If the light and power business serving the situs of the system
8 has the ability to remotely read the kilowatt-hours generated by the
9 renewable energy system, it may apply for a waiver excusing a certified
10 participant from filing the annual statement required in (a) of this
11 subsection.

12 (i) The light and power business must submit an application for the
13 waiver in the form and manner prescribed by the department.

14 (ii) The application must state the meter reading methods that will
15 be used by the light and power business and state the estimated
16 accuracy of such methods. If the stated accuracy of the meter reading
17 method is ninety-eight percent or greater, the waiver must be granted
18 unless the department proves a less accurate read rate.

19 (iii) Upon notice that the department has granted the waiver, the
20 light and power business must notify the certified participant that it
21 is excused from the reporting requirement established in (a) of this
22 subsection.

23 (d) Within sixty days of receipt of the sworn statement described
24 in (a) of this subsection, or, when a waiver is in place, by August 1st
25 of each year, the light and power business serving the situs of the
26 system must notify the applicant in writing whether the incentive
27 payment will be authorized or denied.

28 ~~((e))~~ (e)(i) Persons, administrators of community solar projects,
29 and companies receiving incentive payments must keep and preserve, for
30 a period of five years, suitable records as may be necessary to
31 determine the amount of incentive applied for and received. Such
32 records must be open for examination at any time upon notice by the
33 light and power business that made the payment or by the department.
34 If upon examination of any records or from other information obtained
35 by the business or department it appears that an incentive has been
36 paid in an amount that exceeds the correct amount of incentive payable,
37 the business may assess against the person for the amount found to have
38 been paid in excess of the correct amount of incentive payable and must

1 add thereto interest on the amount. Interest is assessed in the manner
2 that the department assesses interest upon delinquent tax under RCW
3 82.32.050.

4 (ii) If it appears that the amount of incentive paid is less than
5 the correct amount of incentive payable the business may authorize
6 additional payment.

7 (4) Except for community solar projects, the investment cost
8 recovery incentive may be paid fifteen cents per economic development
9 kilowatt-hour unless requests exceed the amount authorized for credit
10 to the participating light and power business. For community solar
11 projects, the investment cost recovery incentive may be paid thirty
12 cents per economic development kilowatt-hour unless requests exceed the
13 amount authorized for credit to the participating light and power
14 business. For the purposes of this section, the rate paid for the
15 investment cost recovery incentive may be multiplied by the following
16 factors:

17 (a) For customer-generated electricity produced using solar modules
18 manufactured in Washington state or a solar stirling converter
19 manufactured in Washington state, two and four-tenths;

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

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

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

28 (5)(a) No individual, household, business, or local governmental
29 entity is eligible for incentives provided under subsection (~~((4))~~) (1)
30 of this section for more than five thousand dollars per year.

31 (b) Except as provided in (c) through (e) of this subsection (5),
32 each applicant in a community solar project is eligible for up to five
33 thousand dollars per year.

34 (c) Where the applicant is an administrator of a community solar
35 project as defined in RCW 82.16.110(~~((2))~~) (3)(a)(i), each owner is
36 eligible for an incentive but only in proportion to the ownership share
37 of the project, up to five thousand dollars per year.

1 (d) Where the applicant is a company owning a community solar
2 project that has applied for an investment cost recovery incentive on
3 behalf of its members, each member of the company is eligible for an
4 incentive that would otherwise belong to the company but only in
5 proportion to each ownership share of the company, up to five thousand
6 dollars per year. The company itself is not eligible for incentives
7 under this section.

8 (e) In the case of a utility-owned community solar project, each
9 ratepayer that contributes to the project is eligible for an incentive
10 in proportion to the contribution, up to five thousand dollars per
11 year.

12 (6) If requests for the investment cost recovery incentive exceed
13 the amount of funds available for credit to the participating light and
14 power business, the incentive payments must be reduced proportionately.

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

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

23 ~~((9) No incentive may be paid under this section for kilowatt-~~
24 ~~hours generated before July 1, 2005, or after June 30, 2020.))~~

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.16 RCW
26 to read as follows:

27 (1) Beginning July 1, 2013, any person, as defined in RCW
28 82.04.030, and not in the light and power business may apply to the
29 commission to receive a voucher entitling it to receive annual
30 incentive payments from the light and power business serving the situs
31 of a renewable energy system for a term of ten years, for each
32 kilowatt-hour of electricity generated by the system.

33 (2) The award of a voucher creates a contractually enforceable
34 promise on behalf of the state to authorize the light and power
35 business to receive a credit against the taxes due under this chapter
36 for an amount equal to the annual incentive payments made under this
37 section in any fiscal year.

1 (3) The annual incentive payment is limited as follows:

2 (a) No incentive may be paid for any kilowatt-hours generated in
3 excess of the net kilowatt-hours consumed at the metered location;

4 (b) No incentive may be paid for a system that has already received
5 incentive payments under RCW 82.16.120; and

6 (c) The annual incentive payment that a system may receive is
7 capped at twenty-five thousand dollars.

8 (4)(a) To be eligible to receive a voucher, the applicant must be
9 the meter holder, meaning the party responsible to the light and power
10 business for paying for electricity transmitted to the situs of an
11 eligible renewable energy system. Eligibility may be further limited
12 as established in section 6 of this act.

13 (b) To be an eligible renewable energy system, the system's situs
14 must be served by a light and power business that has chosen to
15 participate in the incentive program established in this section.

16 (c) The meter holder need not own or occupy the real property upon
17 which the system is installed, but the meter holder is the payee who
18 will receive incentive payments from the light and power business,
19 unless the meter holder informs the utility that it has designated a
20 different payee.

21 (5) To receive incentive payments under this section, beginning
22 July 1, 2013, an applicant must submit to the commission a completed
23 application using the form established by the department in RCW
24 82.16.120(2), or a form later established by the commission, if
25 applicable. The commission is authorized to develop and implement an
26 application form different from the one developed by the department,
27 but the form must at a minimum include the information required in RCW
28 82.16.120(2). If the renewable energy system is leased, the
29 application must include a copy of the lease contract, setting forth
30 the terms of the lease.

31 (6)(a) Within thirty days of receipt of the application, the
32 commission must notify the applicant by mail, or electronically as
33 provided in RCW 82.32.135, if it has determined that the renewable
34 energy system qualifies for the voucher under this section. The
35 commission must transmit the voucher to the light and power business
36 serving the situs of the system within five days of its determination.

37 (b) The voucher must state the first and last day of the ten-year
38 term for which the applicant has qualified to receive production

1 incentive payments from the light and power business. The term must
2 begin on the interconnection date. For the purposes of this
3 subsection, "interconnection date" means the first day that the
4 customer-generated electricity renewable energy system begins producing
5 energy at a meter connected to the power grid.

6 (7) Applications, vouchers, and the information contained therein
7 are subject to disclosure under RCW 82.32.330(3)(1).

8 (8) A light and power business that chooses to participate in the
9 voucher program created in this section may cease to accept vouchers
10 for new systems at any time, but must continue to make payments
11 pursuant to any existing voucher for its entire term, unless a court
12 has declared the incentives provided under this section to be illegal.

13 (a) The light and power business, upon receiving the voucher, must
14 make incentive payments for each kilowatt-hour of electricity
15 generated, at the rate established in subsection (14) or (15) of this
16 section. In return, the light and power business must receive tax
17 credits equal in value to the incentive payments, as provided in RCW
18 82.16.130(2).

19 (b) If, during the ten-year term of the voucher, there is a change
20 in the meter holder and a new party becomes financially responsible to
21 the light and power business, the voucher is transferrable to the new
22 meter holder, provided that the new meter holder is also a person
23 eligible to receive payments under this section.

24 (c) Throughout the duration of the voucher, the incentive must be
25 paid at the same rate that is in effect on the first date of the ten-
26 year term.

27 (9) On or before July 1st of each year, the light and power
28 business must provide a statement to the commission and to the
29 department with the interconnection dates for any new systems that
30 sought incentive payments pursuant to this section, as well as the
31 names of the meter holders for those systems.

32 (10) In order to receive incentive payments from the light and
33 power business, by August 1st, and unless excused from this requirement
34 under subsection (11) of this section, the meter holder must submit to
35 the light and power business a statement of the kilowatt-hours
36 generated by the renewable energy system in the prior fiscal year.

37 (a) The statement must be in the form of a sworn affidavit signed
38 by the meter holder.

1 (b) The amount of kilowatt-hours generated by the system over the
2 course of the year may be determined by reading a production meter, or
3 by any other meter that in the commission's determination is ninety-
4 eight percent accurate, including a meter that reads an inverter
5 connected to the system.

6 (11) If the light and power business serving the situs of the
7 system has the ability to remotely read the kilowatt-hours generated by
8 the renewable energy system, it may apply to the commission for a
9 waiver excusing a customer from filing the annual statement required in
10 subsection (8) of this section.

11 (a) The light and power business must submit an application in the
12 form and manner prescribed by the commission, stating the meter reading
13 methods that will be used by the light and power business and the
14 estimated accuracy of such methods.

15 (b) If the commission grants the waiver, it must notify the utility
16 and the meter holder that it is excused from the reporting requirement
17 established in subsection (10) of this section.

18 (12) Within sixty days of receipt of the sworn statement described
19 in subsection (10) of this section, or, when a waiver is in place, by
20 October 1st of each year, the light and power business must transmit
21 the incentive payment to the meter holder, or inform the meter holder
22 that the payment is denied, describing the basis for denial of the
23 payment.

24 (13) Meter holders receiving incentive payments and light and power
25 businesses making payments must keep and preserve, for a period of five
26 years, suitable records as may be necessary to determine the amount of
27 incentive applied for and received.

28 (a) Such records must be open for examination at any time upon
29 notice by the light and power business that made the payment, the
30 commission, or the department.

31 (b) If, upon examination of any records or other information
32 obtained by the utility, commission, or department it appears that an
33 incentive has been paid in an amount that exceeds the correct amount of
34 incentive payable, the light and power business may assess against the
35 person for the amount found to have been paid in excess of the correct
36 amount of incentive payable and must add thereto interest on the
37 amount. Interest is assessed in the manner that the department
38 assesses interest upon delinquent tax under RCW 82.32.050.

1 (c) If it appears that the amount of incentive paid is less than
2 the correct amount of incentive payable, the light and power business
3 may authorize additional payment.

4 (14) Beginning July 1, 2013, and until at least June 30, 2018, the
5 incentive must be paid at a base rate of fifteen cents per economic
6 development kilowatt-hour. The base rate paid for the investment cost
7 recovery incentive may be multiplied by the following factors:

8 (a) For customer-generated electricity produced using solar modules
9 manufactured in Washington state or a solar stirling converter
10 manufactured in Washington state, two and four-tenths;

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

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

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

19 (15)(a) The commission is authorized to adjust the base rate and
20 multipliers, effective July 1, 2018, and applicable to any vouchers
21 awarded after that date. The rate may be adjusted to reflect decreases
22 in the capital costs of purchasing and installing a renewable energy
23 system, changes in the levelized costs of such systems, or other
24 factors that the commission deems relevant to fulfilling the purpose of
25 incentivizing job growth and the environmental and economic benefits of
26 renewable energy in the state.

27 (b) Notwithstanding any provisions of this section to the contrary,
28 the commission may, prior to awarding the voucher, calculate the total
29 incentive payment to be awarded by the voucher, based on an engineering
30 analysis of the anticipated production of the renewable energy system,
31 over the entire ten-year term of the voucher. The commission must
32 report in the voucher the total anticipated production of the system
33 and the annual incentive payment to which the meter holder is entitled.
34 Incentives awarded through this process, if adopted by the commission,
35 may be capped at the amount estimated, even if actual production over
36 the ten-year term exceeds the estimated production.

37 (16) The commission must award vouchers under this section on a

1 first-come, first-served basis. The total cap on credits that may be
2 awarded pursuant to RCW 82.16.120 and this section, combined, is
3 established in RCW 82.16.130(7).

4 (a) The commission is authorized to award vouchers under this
5 section for a statewide annual amount that is equal to, at most, the
6 difference between the credit cap established in RCW 82.16.130(7) and
7 the amount allocated in RCW 82.16.120.

8 (b) Furthermore, it is the intent of the legislature that enough
9 credits be allocated under this section to allow for full development
10 of the eligible systems. Therefore, as necessary to ensure the
11 availability of credits under this section to a utility that is
12 reaching the credit cap established in RCW 82.16.130(7), the commission
13 must reserve and make available additional credits that otherwise would
14 have been made available for the competitive pool program established
15 under section 5 of this act, in the manner described in section 5(4) of
16 this act.

17 (17) The commission's authority to award a voucher pursuant to this
18 section expires June 30, 2023.

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

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

29 (2) A light and power business is allowed a credit against taxes
30 due under this chapter in an amount equal to the investment cost
31 recovery incentive payments made in any fiscal year under section 3 of
32 this act.

33 (3) A light and power business is allowed a credit against taxes
34 due under this chapter in an amount equal to payments made in any
35 fiscal year under the competitive pool program established in section
36 5 of this act.

1 (4) No entity may claim double credit by seeking or retaining
2 payment or credit for the same electricity generation pursuant to more
3 than one of the programs established in RCW 82.16.120 and section 3 and
4 5 of this act.

5 (5) Incentive payments to participants in a utility-owned community
6 solar project as defined in RCW 82.16.110((+2)) (3)(a)(ii) may only
7 account for up to twenty-five percent of the total allowable credit.
8 Incentive payments to participants in a company-owned community solar
9 project as defined in RCW 82.16.110((+2)) (3)(a)(iii) may only account
10 for up to five percent of the total allowable credit.

11 (6) The total credit claimed under this section may not exceed the
12 tax that would otherwise be due under this chapter. Refunds ((shall))
13 may not be granted in the place of credits. Expenditures not used to
14 earn a credit in one fiscal year may not be used to earn a credit in
15 subsequent years.

16 ((+2)) (7) The total credit available to a light and power
17 business under RCW 82.16.120 and section 3 of this act is capped at 0.4
18 percent of the total of all participating light and power businesses'
19 annual taxable power sales, except as otherwise provided in sections
20 3(16) and 5(4) of this act.

21 (8) For any light and power business that has claimed credit for
22 amounts that exceed the correct amount of the incentive payable under
23 RCW 82.16.120((7)) or, section 3 or 5 of this act the amount of tax
24 against which credit was claimed for the excess payments ((shall-be))
25 is immediately due and payable. The department ((shall)) must assess
26 interest but not penalties on the taxes against which the credit was
27 claimed. Interest ((shall-be)) is assessed at the rate provided for
28 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
29 date the credit was claimed, and ((shall)) accrues until the taxes
30 against which the credit was claimed are repaid.

31 ((3) The right to earn tax credits under this section expires June
32 30, 2020. Credits may not be claimed after June 30, 2021.)) (9) For
33 incentive payments made pursuant to RCW 82.16.120, the right to earn
34 tax credits under this section expires June 30, 2020, and credits may
35 not be claimed after June 30, 2021. For incentive payments made
36 pursuant to sections 3 and 5 of this act, the authority of the housing
37 finance commission to issue a voucher expires June 30, 2023.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.180 RCW
2 to read as follows:

3 (1) There is hereby created within the sustainable energy trust
4 program a competitive pool program. The purpose of the competitive
5 pool is to award incentive payments by a competitive process that will
6 promote installation of renewable energy systems in the state of
7 Washington, giving preference to systems that present the highest
8 economic and environmental value to the state.

9 (2) Beginning July 1, 2014, any person, as defined in RCW
10 82.04.030, who owns a renewable energy system with a generating
11 capacity of up to one hundred kilowatts may apply to the commission to
12 be awarded a voucher, entitling that person to receive payments from
13 the light and power business serving that system for a term of ten
14 years. No voucher may be granted or used to confer or receive
15 incentive payments for electricity generated by a system that has
16 already been subsidized by incentive payments pursuant to RCW 82.16.120
17 or section 3 of this act. The award of a voucher creates a
18 contractually enforceable promise on behalf of the state to authorize
19 the light and power business to receive a credit against the taxes due
20 under this chapter for an amount equal to the annual incentive payments
21 made under this section in any fiscal year. A utility that chooses to
22 participate in the voucher program created in this section may cease to
23 accept new vouchers at any time, but must continue to make payments
24 pursuant to any existing voucher for its entire term, unless a court
25 has declared the incentives provided under this section to be illegal.

26 (a) By November 1, 2013, the commission must establish objective,
27 competitive criteria for awarding a voucher, consistent with the goals
28 established in section 7 of this act. The identity of the light and
29 power business serving the applicant may not be given weight in the
30 award of applications. The commission must give weight and preference
31 to applicants that are a nonprofit, educational, charitable, or other
32 entities exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of
33 the federal internal revenue code of 1986, as amended, as of the
34 effective date of this section. A preference must also be given to
35 community projects that encourage a large number of community members
36 to participate in ownership of the system. In priority order, the
37 criteria must include, but are not limited to:

1 (i) The amount of payment, in cents per kilowatt-hour, the
2 applicant is seeking;

3 (ii) The effective carbon footprint of transportation, materials,
4 and labor, and the degree to which the system contains components
5 manufactured in compliance with state environmental and labor laws;

6 (iii) The system's estimated levelized cost per kilowatt-hour
7 generated;

8 (iv) The degree to which installation of the system or type of
9 system contributes to verifiable job creation in the state of
10 Washington; and

11 (v) The degree to which the state investment of tax credits for
12 incentive payments made pursuant to the voucher leverages nonstate
13 funds.

14 (b) The commission must develop a form to be used by applicants
15 seeking to obtain a voucher from the competitive pool program. The
16 form must include, but is not limited to, the following information:

17 (i) The name and address of the applicant;

18 (ii) The name, address, and tax registration numbers of each of the
19 legal owners of the system, if different from the applicant;

20 (iii) The nonprofit status of any of the entities owning the
21 system, if applicable;

22 (iv) The location, capacity, and anticipated power generation of
23 the renewable energy system;

24 (v) Specifications for the system, including:

25 (A) The system's estimated levelized cost per kilowatt-hour
26 generated; and

27 (B) The place of manufacture of any solar inverters, solar modules;
28 wind generators, wind generator blades, stirling converters, or other
29 identifiable components;

30 (vi) A certification that the electricity can be transformed or
31 transmitted for entry into or operation in parallel with electricity
32 transmission and distribution systems;

33 (vii) A list of any nonstate incentives that the applicant is
34 planning to seek to further subsidize the system costs;

35 (viii) The date that the renewable energy system received or
36 expects to receive its final electrical permit from the applicable
37 local jurisdiction and the date that a production meter or other meter

1 capable of determining the system's electricity production within a
2 ninety-eight percent degree of accuracy became or is expected to become
3 operable;

4 (ix) The amount of payment, in cents per kilowatt-hour, the
5 applicant is seeking; and

6 (x) Any other information as necessary to collect or produce the
7 data required to be reported to the legislature in section 7 of this
8 act.

9 (c) Upon determining that a person is to be awarded the voucher
10 provided in this section, the commission must notify the applicant that
11 the system has been certified to receive the incentive for a ten-year
12 term. The term begins on the day after the date that the system has
13 been certified by the commission, or the day that the system is
14 interconnected with the light and power business and a production meter
15 or other accurate meter becomes operable on site, whichever date is
16 later. The commission must also present a certificate to the light and
17 power business serving the situs of the system, which must include, but
18 is not limited to, the following information:

19 (i) The amount of incentive payment that the applicant is bidding
20 to receive from the utility, in cents per kilowatt-hour for electricity
21 generated by the renewable energy system; and

22 (ii) The first and last day of the ten-year term for which the
23 light and power business must make incentive payments pursuant to the
24 voucher.

25 (3) No new vouchers may be awarded pursuant to this section after
26 June 30, 2023.

27 (4)(a) Each year, the commission must calculate the amount of
28 voucher credits available to be awarded under this section.

29 (b) The upper limit of the amount of credits available to be
30 awarded under the competitive pool program each year is determined by
31 aggregating 0.1 percent of the taxable sales due under RCW
32 82.16.020(1)(b) for each of the utilities who participated in the
33 investment cost recovery program established in RCW 82.16.120.
34 However, if necessary to ensure that every utility has enough credits
35 available to meet all the demand in the utility's service area for
36 incentive payments under section 3 of this act, the commission must
37 deduct from the total credits available to the competitive pool as many

1 credits as required, and transfer these credits back to the utility
2 that is reaching the credit limit established in section 3(16) of this
3 act.

4 (i) By July 1, 2014, the commission must establish and publicize a
5 process and objective standards by which it will determine if a light
6 and power business is approaching the limit, established in RCW
7 82.16.130(7), for credits available under the phase II program.

8 (ii) If the commission determines that a light and power business
9 is approaching this limit and as a result, there is a negative impact
10 on the growth and development of new renewable energy systems served by
11 that light and power business, the commission must transfer credits
12 from the competitive pool back to the light and power business.

13 (iii) By December 1st of each year, beginning in 2015, the
14 commission must announce whether it is reserving and making available
15 additional credits to any light and power business for the renewable
16 investment cost recovery incentive program established in section 3 of
17 this act.

18 (5) The commission is authorized to fix, revise, and collect fees
19 and charges in connection with the creation and implementation of the
20 incentive programs, reporting requirements, performance evaluation, and
21 other activities established in this act, in addition to exercising any
22 general power already set forth in RCW 43.180.080(6). After June 30,
23 2023, the commission's authority is limited to reporting to the
24 legislature on the progress of the programs in this act, any actions
25 necessary to collect, assemble, and analyze the data required for this
26 reporting, and assessment and collection of fees in connection with the
27 reporting requirement.

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.180 RCW
29 to read as follows:

30 (1) Except as otherwise provided by the commission pursuant to
31 subsection (2) of this section, to be eligible to receive the incentive
32 created in section 3 or 5 of this act, the applicant for the voucher
33 must be an owner of the renewable energy system.

34 (2) After December 31, 2015, if in compliance with other applicable
35 law or rule, the commission may authorize renewable energy systems
36 owned by third parties to qualify for the incentives created under
37 sections 3 and 5 of this act. Renewable energy systems owned by third

1 parties may only be authorized to receive the incentives if, in the
2 commission's determination, based on objective criteria, such ownership
3 is consistent with the legislature's goals established in section 7(1)
4 of this act. The commission, in making its determination, must hold
5 meetings with interested parties, hold at least one public hearing at
6 a commission meeting with commissioners present, and provide
7 opportunity for public comment.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.16 RCW
9 to read as follows:

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

16 (a) The legislature intends to achieve the following performance
17 milestones as a result of the incentives awarded under RCW 82.16.120,
18 82.16.130, and section 5 of this act:

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

21 (ii) Achievement of a top ten national ranking for solar-related
22 employment and a top nine ranking for per capita solar-related
23 employment;

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

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

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

30 (vi) An increase in renewable-related employment and in the
31 utilization of the other renewable generating resources covered in RCW
32 82.16.120, 82.16.130, and sections 3, 5, and 6 of this act.

33 (b) In addition, the legislature intends to achieve the following
34 performance milestones within and as a result of the competitive pool
35 program created in section 5 of this act:

36 (i) A decrease in the average price per kilowatt-hour of

1 electricity generated, as compared to the average price per kilowatt-
2 hour of electricity generated by systems that received or are receiving
3 the incentive under RCW 82.16.120;

4 (ii) Leveraging of nonstate funds, as measured by a report of the
5 total dollar value of tax credits awarded under section 5 of this act
6 within each county, and the total amount of nonstate funds leveraged
7 within each county.

8 (2) The commission must collect data from persons receiving the tax
9 preferences created in this act as necessary to report on progress
10 toward achieving the performance milestones listed in subsection (1) of
11 this section. In determining the number of solar-related and other
12 renewable energy-related jobs in the state, Washington's relative
13 ranking among states, and otherwise as necessary, the commission may
14 consult with the Washington State University energy program. Data and
15 methodologies may be derived from the "national solar jobs census"
16 produced by the solar foundation, or from an equivalent study.

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

21 (4) By December 1st of every odd-numbered year, beginning in 2015,
22 and in compliance with RCW 43.01.036, the commission must submit a
23 report to the legislature that details the progress achieved in the
24 immediately preceding biennium in reaching the intended outcomes
25 specified in this section.

26 (5) As part of its 2022 tax preference reviews conducted under
27 chapter 43.136 RCW, the joint legislative audit and review committee
28 must assess the performance of the incentives created in this act, with
29 reference to the performance milestones established in this section.

30 **Sec. 8.** RCW 82.16.110 and 2011 c 179 s 2 are each amended to read
31 as follows:

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

34 (1) "Administrator" means an owner and assignee of a community
35 solar project as defined in subsection ~~((+2+))~~ (3)(a)(i) of this
36 section that is responsible for applying for the investment cost
37 recovery incentive on behalf of the other owners and performing such

1 administrative tasks on behalf of the other owners as may be necessary,
2 such as receiving investment cost recovery incentive payments, and
3 allocating and paying appropriate amounts of such payments to the other
4 owners.

5 (2) "Commission" means the Washington state housing finance
6 commission as defined in RCW 43.180.020.

7 (3)(a) "Community solar project" means:

8 (i) A solar energy system that is capable of generating up to
9 seventy-five kilowatts of electricity and is owned by local
10 individuals, households, nonprofit organizations, or nonutility
11 businesses that is placed on the property owned by a cooperating local
12 governmental entity that is not in the light and power business or in
13 the gas distribution business;

14 (ii) A utility-owned solar energy system that is capable of
15 generating up to seventy-five kilowatts of electricity and that is
16 voluntarily funded by the utility's ratepayers where, in exchange for
17 their financial support, the utility gives contributors a payment or
18 credit on their utility bill for the value of the electricity produced
19 by the project; or

20 (iii) A solar energy system, placed on the property owned by a
21 cooperating local governmental entity that is not in the light and
22 power business or in the gas distribution business, that is capable of
23 generating up to seventy-five kilowatts of electricity, and that is
24 owned by a company whose members are each eligible for an investment
25 cost recovery incentive for the same customer-generated electricity as
26 provided in RCW 82.16.120.

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

29 (i) "Company" means an entity that is:

30 (A)(I) A limited liability company;

31 (II) A cooperative formed under chapter 23.86 RCW; or

32 (III) A mutual corporation or association formed under chapter
33 24.06 RCW; and

34 (B) Not a "utility" as defined in this subsection (~~((+2))~~) (3)(b);
35 and

36 (ii) "Nonprofit organization" means an organization exempt from
37 taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
38 code of 1986, as amended, as of January 1, 2009; and

1 (iii) "Utility" means a light and power business, an electric
2 cooperative, or a mutual corporation that provides electricity service.

3 ~~((+3))~~ (4) "Customer-generated electricity" means a community
4 solar project or the alternating current electricity that is generated
5 from a renewable energy system located in Washington and installed on
6 an individual's, businesses', or local government's real property that
7 is also provided electricity generated by a light and power business.
8 Except for community solar projects, a system located on a leasehold
9 interest does not qualify under this definition. Except for utility-
10 owned community solar projects, "customer-generated electricity" does
11 not include electricity generated by a light and power business with
12 greater than one thousand megawatt hours of annual sales or a gas
13 distribution business.

14 ~~((+4))~~ (5) "Economic development kilowatt-hour" means the actual
15 kilowatt-hour measurement of customer-generated electricity multiplied
16 by the appropriate economic development factor.

17 ~~((+5))~~ (6) "Local governmental entity" means any unit of local
18 government of this state including, but not limited to, counties,
19 cities, towns, municipal corporations, quasi-municipal corporations,
20 special purpose districts, and school districts.

21 ~~((+6))~~ (7) "Photovoltaic cell" means a device that converts light
22 directly into electricity without moving parts.

23 ~~((+7))~~ (8) "Renewable energy system" means a solar energy system,
24 an anaerobic digester as defined in RCW 82.08.900, or a wind generator
25 used for producing electricity.

26 ~~((+8))~~ (9) "Solar energy system" means any device or combination
27 of devices or elements that rely upon direct sunlight as an energy
28 source for use in the generation of electricity.

29 ~~((+9))~~ (10) "Solar inverter" means the device used to convert
30 direct current to alternating current in a solar energy system.

31 ~~((+10))~~ (11) "Solar module" means the smallest nondivisible self-
32 contained physical structure housing interconnected photovoltaic cells
33 and providing a single direct current electrical output.

34 ~~((+11))~~ (12) "Stirling converter" means a device that produces
35 electricity by converting heat from a solar source utilizing a stirling
36 engine.

1 NEW SECTION. **Sec. 9.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 10.** If a state, federal, or international
6 tribunal determines that the application of specific substantive
7 criteria established in section 3 or 5 of this act for awarding
8 incentives is a violation of state, federal, or international law, the
9 housing finance commission may cease to apply the specific criteria
10 found to be illegal but continue to award incentives under this program
11 by substituting new criteria, adopted after notice and in consultation
12 with stakeholders and state agencies. These criteria must be chosen in
13 light of the legislature's intent to increase the wage level of jobs in
14 our state, inure to our state the environmental benefits of clean
15 energy, and minimize the state's carbon footprint. Consequently, the
16 new criteria must award systems that were manufactured in compliance
17 with state environmental standards and occupational health and safety
18 regulations to the fullest extent feasible under law.

19 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 July 1, 2013.

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