
HOUSE BILL 2176

State of Washington

63rd Legislature

2014 Regular Session

By Representative Morris

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1 AN ACT Relating to leased energy systems; adding a new section to
2 chapter 80.60 RCW; adding a new section to chapter 82.16 RCW; adding
3 new sections to chapter 80.28 RCW; and adding a new chapter to Title 19
4 RCW.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 provide mechanisms for low-cost financing of energy systems on the
8 distribution side of the electricity grid, to provide for consumer
9 protection of customers of these systems, and to recognize electric
10 utility efforts in being early adopters of programs that encourage
11 energy independence by customers.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Electric utility" means a consumer-owned utility or investor-
15 owned utility as those terms are defined in RCW 19.280.020.

16 (2) "High efficiency cogeneration" means the sequential production
17 of electricity and useful thermal energy from a common fuel source,

1 where, under normal operating conditions, the facility has a useful
2 thermal energy output of no less than thirty-three percent of the total
3 energy output.

4 (3) "Low-cost renewable energy system" means a renewable energy
5 system that is:

6 (a) Located in Washington;

7 (b) Installed on an individual's, business's, or local government's
8 real property that is not leased and is provided electricity generated
9 by an electric utility; and

10 (c)(i) Owned by:

11 (A) An electric utility and leased to a customer; or

12 (B) A third-party vendor that has contracted with a customer of an
13 electric utility to lease a renewable energy system; or

14 (ii) Owned by the property owner with a loan from an electric
15 utility or a third-party vendor, which loan is securitized with the
16 owner's property or access to electricity supplied by the electric
17 utility.

18 (4) "Renewable energy system" includes: (a) Water; (b) wind; (c)
19 solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean,
20 or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
21 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
22 on land cleared from old growth or first-growth forests where the
23 clearing occurred after December 7, 2006; (i) biomass energy; or (j)
24 high efficiency cogeneration.

25 (5) "Third-party vendor" means an entity that seeks to provide
26 loans for or to lease and install renewable energy systems to electric
27 utility customers.

28 NEW SECTION. **Sec. 3.** (1) An electric utility or third-party
29 vendor may offer a low-cost loan or lease program that provides
30 customers across all rate classes access to renewable energy systems on
31 their property.

32 (2) An electric utility or third-party vendor that offers a low-
33 cost or lease program must ensure open and fair access through
34 competitive bidding of systems and licensed contractors for
35 installation of these systems. The electric utility or third-party
36 vendor must ensure a reasonable price for leases or loans, the use of

1 a skilled local work force for these technologies, and a diversity of
2 businesses in procuring leases or loans for renewable energy systems.

3 NEW SECTION. **Sec. 4.** (1) If an electric utility offers a low-cost
4 renewable energy system program, no other entity may offer loans or
5 leases to the utility's customers.

6 (2) If an electric utility does not offer a low-cost loan or lease
7 program that provides customers across all rate classes access to
8 renewable energy systems on their property, third-party vendors may
9 offer such systems through low-interest loans or leases to the electric
10 utility's customers.

11 NEW SECTION. **Sec. 5.** Any customer leasing a renewable energy
12 system from an electric utility or a third-party vendor must be
13 provided with an option to purchase the renewable energy system at a
14 fair market value at the end of the lease term.

15 NEW SECTION. **Sec. 6.** An electric utility or third-party vendor
16 leasing a renewable energy system to a customer must demonstrate prior
17 to signing the lease that there will be a net benefit to the property
18 owner at the conclusion of the lease.

19 NEW SECTION. **Sec. 7.** Any customer leasing a renewable energy
20 system from an electric utility or a third-party vendor must be able to
21 transfer the obligation with any change of ownership of the underlying
22 property.

23 NEW SECTION. **Sec. 8.** (1) The utilities and transportation
24 commission shall publish a list of financing models being offered by
25 investor-owned utilities or third-party vendors registered as
26 competitive electrical companies.

27 (2) The governing boards of customer-owned utilities shall publish
28 a list of financing models being offered by the utility or third-party
29 vendors registered as competitive electrical companies.

30 NEW SECTION. **Sec. 9.** A new section is added to chapter 80.60 RCW
31 to read as follows:

1 (1) Only low-cost renewable energy systems that can store up to
2 twenty percent of the maximum total system hourly output for four hours
3 are eligible for net metering.

4 (2) For the purposes of this section, "low-cost renewable energy
5 system" has the same meaning as defined in section 2 of this act.

6 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.16 RCW
7 to read as follows:

8 (1) A low-cost renewable energy system is not eligible for the
9 renewable energy investment cost recovery program if the program is
10 extended past 2021.

11 (2) For the purposes of this section, "low-cost renewable energy
12 system" has the same meaning as defined in section 2 of this act.

13 NEW SECTION. **Sec. 11.** A new section is added to chapter 80.28 RCW
14 to read as follows:

15 (1) The legislature finds that:

16 (a) Third-party vendors of distributed renewable energy systems are
17 electrical companies as defined in this title and are subject to the
18 jurisdiction of the commission.

19 (b) A competitive marketplace with effective competition exists for
20 the provision of loans for or leasing and installation of distributed
21 renewable energy systems in the state of Washington.

22 (c) Traditional rate of return, rate base regulation of electrical
23 companies providing loans for or leasing and installation of
24 distributed renewable energy systems may not provide the most efficient
25 and effective means of achieving the public policy goals of this state
26 as declared in RCW 80.28.024, 80.28.074, and this section. The
27 commission is authorized to employ an alternative form of regulation if
28 that alternative is better suited to achieving those policy goals.

29 (d) The commission should retain its authority to protect consumers
30 of distributed renewable energy systems from unreasonable deceptive
31 practices. Nothing in this act precludes the office of the attorney
32 general from exercising its statutory authority concerning consumer
33 protection.

34 (2) For the purposes of this section, "renewable energy system" has
35 the same meaning as defined in section 2 of this act.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 80.28 RCW
2 to read as follows:

3 (1) A third-party vendor must register with the commission as a
4 competitive electrical company before beginning operations in this
5 state to provide loans for or to lease and install distributed
6 renewable energy systems. The registration must be on a form
7 prescribed by the commission and contain that information as the
8 commission may by rule require, but must include at a minimum: The
9 name and address of the company; the name and address of the company's
10 registered agent, if any; the name, address, and title of each officer
11 or director; the company's most current balance sheet; the company's
12 latest annual report, if any; and a description of the services the
13 company offers or intends to offer.

14 (2) The commission may require as a precondition to registration
15 the procurement of a performance bond sufficient to cover any advances
16 or deposits the electrical company may collect from its customers or
17 order that the advances or deposits be held in escrow or trust.

18 (3) The commission may deny registration to any company that:

19 (a) Does not provide the information required by this section;

20 (b) Fails to provide a performance bond, if required;

21 (c) Does not possess adequate financial resources to provide the
22 proposed service; or

23 (d) Does not possess adequate technical competency to provide the
24 proposed service.

25 (4) The commission shall take action to approve or issue a notice
26 of hearing concerning any application for registration within thirty
27 days after receiving the application. The commission may approve an
28 application with or without a hearing. The commission may deny an
29 application after a hearing.

30 (5) The commission may adopt rules that describe the manner by
31 which it will regulate competitive electrical companies, as well as the
32 process for considering applications for registration under this title.

33 (6) For the purposes of this section, "renewable energy system" has
34 the same meaning as defined in section 2 of this act.

35 NEW SECTION. **Sec. 13.** A new section is added to chapter 80.28 RCW
36 to read as follows:

37 (1) Competitive electrical companies must be subject to minimal

1 regulation. The commission may waive any regulatory requirement under
2 this title for competitive electrical companies when it determines that
3 competition will serve the same purposes as public interest regulation.
4 The commission may waive different regulatory requirements for
5 different companies if the different treatment is in the public
6 interest. A competitive electrical company must at a minimum:

7 (a) Keep its accounts according to regulations as determined by the
8 commission;

9 (b) File financial reports with the commission as required by the
10 commission and in a form and at times prescribed by the commission;

11 (c) Post its prices on a public web site available to all potential
12 customers; and

13 (d) Cooperate with commission investigations of customer
14 complaints.

15 (2) The commission may revoke any waivers it grants and may
16 reclassify any competitive electrical company if the revocation or
17 reclassification would protect the public interest.

18 (3) The commission may waive the requirements of RCW 80.28.090 in
19 whole or in part for a competitive electrical company if it finds that
20 competition will serve the same purpose and protect the public
21 interest.

22 (4) Competitive electrical companies must pay regulatory fees to
23 the commission under chapter 80.24 RCW.

24 (5) During a state of emergency declared under RCW 43.06.010(12),
25 the governor may waive or suspend the operation or enforcement of this
26 section or any portion of this section or under any administrative
27 rule, and issue any orders to facilitate the operation of state or
28 local government or to promote and secure the safety and protection of
29 the civilian population.

30 NEW SECTION. **Sec. 14.** Sections 1 through 8 of this act constitute
31 a new chapter in Title 19 RCW.

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