

HOUSE BILL REPORT

HB 1048

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to promoting a sustainable, local renewable energy industry through modifying renewable energy system tax incentives and providing guidance for renewable energy system component recycling.

Brief Description: Promoting a sustainable, local renewable energy industry through modifying renewable energy system tax incentives and providing guidance for renewable energy system component recycling.

Sponsors: Representatives Morris, Fitzgibbon, Fey, Hudgins and Tarleton.

Brief History:

Committee Activity:

Technology & Economic Development: 1/12/17, 3/1/17 [DPS].

Brief Summary of Substitute Bill

- Closes the Renewable Energy Cost Recovery Incentive Payment Program to new customer participants after June 30, 2017.
- Authorizes a person that owns a renewable energy system or an administrator of a community solar project to apply to the Washington State University Extension Energy Program, beginning July 1, 2017, and ending June 30, 2020, for certification of eligibility to receive an annual production incentive payment under the Renewable Energy Production Incentive Program.
- Limits the statewide total amount of public utility tax credits available to be claimed by utilities for incentive payments made to customers after June 30, 2017, to \$150 million.
- Requires the Department of Ecology to establish a process to develop guidance for solar module stewardship plans by January 1, 2018.
- Expires certain sales and use tax incentives for machinery and equipment used directly in solar energy or solar thermal energy systems on June 30, 2017.

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.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Doglio, Fey, Harmsworth, Hudgins, Manweller, Santos, Slatter, Steele and Wylie.

Minority Report: Without recommendation. Signed by 2 members: Representatives McDonald and Nealey.

Staff: Nikkole Hughes (786-7156).

Background:

Renewable Energy Cost Recovery Incentive Payment Program.

Under the Renewable Energy Cost Recovery Incentive Payment Program (Cost Recovery Program), an electric utility may claim a credit against its public utility tax obligations for incentive payments made by the utility to a customer for electricity produced by an eligible renewable energy system or community solar project. An eligible "renewable energy system" is a solar energy system, anaerobic digester, or wind generator that is installed on an individual, business, or local government electric customer's real property.

No credits may be claimed by an electric utility under the Cost Recovery Program after June 30, 2021.

Community Solar Projects.

Under the Cost Recovery Program, a "community solar project" is a solar energy system capable of generating up to 75 kilowatts of electricity that is:

- owned by local individuals, households, nonprofit organizations, or nonutility businesses and placed on local governmental property;
- owned by a utility and voluntarily funded by the utility's ratepayers in exchange for credits on their utility bills; or
- owned by a company and placed on local governmental property.

Cost Recovery Program Incentive Payments.

An individual, business, or local government that owns an eligible renewable energy system, or a participant in a community solar project, may apply to its electric utility for an investment cost recovery incentive payment (incentive payment) for each kilowatt-hour (kWh) of electricity produced by the system.

The base incentive payment rate for each actual kWh measurement of electricity from an eligible renewable energy system, regardless of system type, is 15 cents per kWh. The base rate is then multiplied by certain "economic development factors," determined by system type and whether the system or components of the system were manufactured in Washington. The highest incentive payment rate available for an eligible renewable energy system is 54 cents per kWh for a solar energy system with modules and an inverter manufactured in Washington.

The base incentive payment rate for each actual kWh measurement of electricity from a community solar project is 30 cents per kWh. The base rate is then multiplied by certain "economic development factors," determined by whether the system or components of the system were manufactured in Washington. The highest incentive payment rate available for a community solar project is \$1.08 per kWh for a project with modules and an inverter manufactured in Washington.

No individual, household, business, local government, or participant in a community solar project may receive more than \$5,000 in incentive payments per year. No incentive may be paid for kWh generated after June 30, 2020.

Cap on Total Allowable Public Utility Tax Credits.

An electric utility may claim an annual credit of up to 0.5 percent of its taxable power sales or \$100,000, 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 credit cannot exceed the amount of tax owed by the utility, and cannot be refunded.

If requests for incentive payments exceed the amount of funds available for credit to the participating electric utility, the incentive payments must be reduced proportionately.

Administration of the Cost Recovery Program.

The Cost Recovery Program is administered by the Department of Revenue, with technical assistance from the Washington State University Extension Energy Program (WSU Energy Program).

Sales and Use Tax Incentives for Solar Equipment.

Until June 30, 2018, purchases of machinery and equipment used directly in solar energy systems that generate no more than 10 kilowatts of electricity are exempt from sales and use tax. Labor charges to install such equipment are also exempt.

Until June 30, 2018, purchases of machinery and equipment used directly in solar thermal energy systems that produce no more than 3 million British thermal units per day are exempt from sales and use tax. Labor charges to install such equipment are also exempt.

Until January 1, 2020, purchases of machinery and equipment used directly in solar energy systems that generate more than 10 kilowatts of electricity, or in other qualified renewable energy systems that generate at least 1 kilowatt of electricity, are eligible for a refund equal to 75 percent of the sales and use tax paid.

Summary of Substitute Bill:

Renewable Energy Cost Recovery Incentive Payment Program.

The Renewable Energy Cost Recovery Incentive Payment Program (Cost Recovery Program) is closed to new customer participants after June 30, 2017. A customer who enters the

program by this date must apply to the WSU Energy Program by April 30, 2018, in order to continue to receive their incentive payment allowed under the Cost Recovery Program for electricity generated by a renewable energy system through June 30, 2020. The customer must submit their application to the WSU Energy Program with a one-time fee of \$100.

Beginning July 1, 2017, administration of the Cost Recovery Program is transferred from the Department of Revenue (DOR) to the WSU Energy Program. The WSU Energy Program must, beginning July 1, 2018, calculate for the year and provide to a participating utility the amount of the incentive payment due to each participant under the Cost Recovery Program.

Renewable Energy Production Incentive Program.

Beginning July 1, 2017, under the Renewable Energy Production Incentive Program (Production Incentive Program), a person that owns a renewable energy system or an administrator of a community solar project may apply to the WSU Energy Program for certification establishing the applicant's eligibility to receive an annual production incentive payment for each kilowatt-hour (kWh) of alternating current electricity generated by the system.

Eligible renewable energy systems include residential-scale and commercial-scale anaerobic digesters, wind generators, and solar energy systems. "Residential-scale" means a renewable energy system or systems with a combined nameplate capacity of 12 kilowatts or less. "Commercial-scale" means a renewable energy system or systems, other than a community solar project, with a combined nameplate capacity of greater than 12 kilowatts.

No certification may be issued under the Production Incentive Program after June 30, 2020.

Community Solar Project Administrators.

Under the Production Incentive Program, a "community solar project" is a solar energy system that has a direct current nameplate generating capacity no greater than 1,000 kilowatts. A community solar project that has a generating capacity greater than 500 kilowatts must be subject to a standard interconnection agreement with the utility serving the situs of the project. A community solar project must be administered by a utility or other entity and must have at least 10 participants, all of whom must be customers of the utility providing service at the project's location.

The administrator of a community solar project must provide each project participant with a disclosure form containing all material terms and conditions of participation in the project.

The Utilities and Transportation Commission (UTC) must publish, without disclosing proprietary information, a list of:

- entities other than utilities that organize and administer community solar projects; and
- community solar projects and related programs and services offered by investor-owned utilities.

If a consumer-owned utility opts to provide a community solar program or contracts with a nonutility administrator to offer a community solar program, the governing body of the consumer-owned utility must publish, without disclosing proprietary information, a list of the nonutility administrators contracted by the utility as part of its community solar program.

Violation of the reporting and disclosure requirements for administrators of community solar projects is a violation of the Consumer Protection Act.

Production Incentive Certification and Payments.

Certification of eligibility under the Production Incentive Program is valid for the program term. "Program term" for a community solar project means eight years, or until cumulative incentive payments for electricity produced by the project reach 100 percent of the total system price (including applicable sales tax), whichever occurs first. "Program term" for a renewable energy system other than a community solar project means eight years, or until cumulative incentive payments for electricity produced by the project reach 50 percent of the total system price (including applicable sales tax), whichever occurs first.

The applicant or, in the case of a community solar project, the participant is entitled to receive incentive payments for electricity generated for the program term from the date the renewable energy system commences operation.

The incentive rate available depends on the fiscal year of certification, the system type, and whether the system is eligible for a made-in-Washington bonus rate. A renewable energy system or community solar project is eligible for a made-in-Washington bonus rate if its solar modules, wind turbine, or tower is made in Washington. The incentive rates available under the Production Incentive Program are as follows:

Fiscal year of system certification	Base rate - residential-scale	Base rate - commercial-scale	Base rate - community solar	Made-in-Washington bonus rate
2018	\$0.16	\$0.06	\$0.16	\$0.05
2019	\$0.14	\$0.04	\$0.14	\$0.05
2020	\$0.12	\$0.02	\$0.12	\$0.05
2021	\$0.10	\$0.02	\$0.10	\$0.05

No person, business, or household is eligible to receive production incentive payments of more than \$5,000 per year for residential-scale systems or community solar projects, or \$25,000 per year for commercial-scale systems.

Public Utility Tax Credits.

An electric utility may claim a credit against its public utility tax obligations for incentive payments made by the utility to a customer under the Cost Recovery Program or the Production Incentive Program.

An electric utility may claim an annual credit of up to 2 percent of its taxable power sales generated in calendar year 2014 or \$250,000, whichever is greater. Incentive payments to participants in a community solar project may only account for up to 45 percent of the total allowable credit. Incentive payments for electricity produced by commercial-scale systems may only account for up to 25 percent of the total allowable credit. The credit cannot exceed the amount of tax owed by the utility, and cannot be refunded.

No credits may be claimed by an electric utility under the Cost Recovery Program after June 30, 2021. No credits may be claimed by an electric utility under the Production Incentive Program after June 30, 2029.

The statewide total amount of credits that may be claimed for incentive payments made under the Cost Recovery Program or the Production Incentive Program after June 30, 2017, may not exceed \$150 million.

The DOR must submit a report to the appropriate legislative committees by January 1, 2018, and at least every six months thereafter, on: the total amount of credits that have been applied for since June 30, 2017; the amount issued; and the amount remaining before the statewide program limit is reached.

Effect of Previous Cost Recovery Program Participation.

A system that was certified under the Cost Recovery Program cannot be certified under the Production Incentive Program. The WSU Energy Program may issue a new certification for an additional system installed at a location with a previously certified system so long as the new system meets eligibility requirements under the Production Incentive Program and its production can be measured separately from the previously certified system. The WSU Energy Program may also issue a recertification for a residential-scale or commercial-scale system if a customer makes investments resulting in an expansion of the system's nameplate capacity.

Community Solar Companies.

No community solar company may engage in business in the state or apply to the WSU Energy Program for certification under the Production Incentive Program without first registering with the UTC. The UTC is authorized to adopt rules that describe the manner by which it will register a community solar company. Failure of a community solar company to register with the UTC constitutes an unfair or deceptive act in trade or commerce in violation of the Consumer Protection Act.

"Community solar company" means a person, firm, or corporation, other than an electric utility or a community solar cooperative, that owns a community solar project and provides community solar project services to project participants.

"Community solar cooperative" means a cooperative of multiple customers of the utility providing electrical service to the situs of a community solar project for the purpose of shared, direct ownership of the community solar project.

Photovoltaic Module Recycling.

By January 1, 2018, the Department of Ecology (Department) must establish a process to develop guidance for photovoltaic module stewardship plans by working with manufacturers, stewardship organizations, and other stakeholders on the content, review, and approval of stewardship plans. The Department's process must be fully implemented and stewardship guidance must be completed by January 1, 2019.

Beginning January 1, 2021, no manufacturer may sell or offer for sale a photovoltaic module, in or into the state, unless the manufacturer has submitted a stewardship plan to the Department and has received plan approval.

Washington State Housing Finance Commission.

The Washington State Housing Finance Commission (WSHFC) must submit a report to the Legislature by December 31, 2017, that assesses financing tools or models for the aggregation, by public or private entities, of federal tax incentives and other financial benefits accruing from the installation, ownership, and operation of renewable energy systems and other distributed energy resources.

Beginning July 1, 2018, the WSHFC may implement a financing tool or model for the aggregation of federal tax incentives and other financial benefits associated with renewable energy systems and distributed energy resources if the WSHFC determines that it is legally, financially, and economically feasible.

Sales and Use Tax Incentives for Solar Equipment.

Certain sales and use tax incentives for machinery and equipment used directly in solar energy or solar thermal energy systems expire June 30, 2017.

Substitute Bill Compared to Original Bill:

The substitute bill:

- clarifies that the Joint Legislative Audit and Review Committee must review the performance of the Renewable Energy Production Incentive Program (Production Incentive Program) in 2021 rather than in 2019;
- limits the statewide total amount of public utility tax credits available to be claimed by utilities for incentive payments made to customers after June 30, 2017, to \$150 million;
- changes the last date on which the WSU Energy Program may issue a certification for an incentive payment under the Production Incentive Program from June 30, 2021, to June 30, 2020;
- requires a customer who has submitted a complete certification to the Department of Revenue under the Renewable Energy Cost Recovery Incentive Payment Program (Cost Recovery Program) by June 30, 2017, to apply to the WSU Energy Program by April 30, 2018, in order to continue to receive their incentive payment allowed under the Cost Recovery Program for electricity generated by a renewable energy system through June 30, 2020;
- requires the WSU Energy Program to collect a one-time fee of \$100 from customers applying to the WSU Energy Program to continue to receive their incentive payment under the Cost Recovery Program;
- requires the WSU Energy Program, beginning July 1, 2018, to calculate for the year and provide to the utility the amount of the incentive payment due to each participant under the Cost Recovery Program;
- clarifies that a utility may claim public utility tax credits for incentive payments issued under the Cost Recovery Program through June 30, 2021, but that it may claim public utility credits for incentive payments made under the Production Incentive Program through June 30, 2029;

- amends the definition of "certification" to refer to "program term" rather than to an eight-year certification term;
- reduces the made-in-Washington bonus rates under the Production Incentive Program to 5 cents per kilowatt-hour each fiscal year;
- increases the amount of time a utility has to issue an incentive payment under the Production Incentive Program from 30 days to 60 days;
- removes reference to nonprofit organizations as administrators of community solar projects and opens the program to utilities or other entities instead;
- establishes provisions related to the transfer of participation in a community solar project in the event that a project participant terminates their involvement in the project;
- increases the per-utility community solar cap from 25 percent of a utility's total available credit to 45 percent;
- increases the size of eligible community solar projects under the Production Incentive Program from 500 kilowatts to 1,000 kilowatts, and requires a community solar project that is greater than 500 kilowatts to be subject to a standard interconnection agreement with the utility serving the situs of the project;
- establishes certain reporting and disclosure requirements for administrators of community solar projects and makes violation of these provisions a violation of the Consumer Protection Act;
- prohibits a utility from adopting rates, terms, conditions, or standards that unduly or unreasonably discriminate between utility-administered community solar projects and those administered by another entity;
- establishes certain registration requirements for "community solar companies;"
- changes the term "solar module" in the stewardship program to "photovoltaic module;" and
- requires the Washington State Housing Finance Commission to submit a report to the Legislature by December 31, 2017, on the potential aggregation of federal tax incentives and other financial benefits accruing from the installation, ownership, and operation of renewable energy systems and other distributed energy resources.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 1, 2017.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) The current incentive system has facilitated the expansion of the solar energy industry and has given the state the opportunity to become more solar-friendly. This bill will allow customers and businesses to continue to deploy solar energy systems in the state. The bill addresses the issue of the per-utility cap on available public utility tax credits, which is important because 17 out of the 48 participating utilities have already met their credit caps under current law. It improves upon the current program by reducing the available incentive

rates and increasing the transparency of the program. This bill helps reduce the state's reliance on fossil fuels and helps mitigate climate change.

(Opposed) There are concerns with the recycling provisions of the bill, which do not specify if the requirements pertain only to the solar cell or to the entire solar module.

(Other) This program could do more to empower utilities, particularly in the area of the community solar program. The Renewable Energy Production Incentive Program established under this bill does not meet the appetite of large-load customer classes. This bill does not attempt to establish equitable costs of service among customer classes. The recycling provisions are premature. The Solar Energy Industry Association is already developing its own voluntary recycling program. The recycling provisions may be burdensome and impact the growth of the solar energy industry in the state.

Persons Testifying: (In support) Representative Morris, prime sponsor; Paul Berendt, Itek Energy; Dave Kozen, A&R Solar and Solar Installers of Washington; Dave Warren, Washington Public Utility District Association; Rose Feliciano, Seattle City Light; Paul Benz, Faith Action Network; Jasmine Vasavada, Department of Commerce; Sheila Riggs, Washington State University Extension Energy Program; and Rich Phillips, PureSolar.

(Opposed) Charlie Brown, Consumer Technology Association.

(Other) Christine Brewer, Avista Corporation; Jeff Gombosky, Energy Freedom Coalition of America; and Suzanne Merkelson, Solar City.

Persons Signed In To Testify But Not Testifying: None.