
ENGROSSED SUBSTITUTE HOUSE BILL 2248

State of Washington

66th Legislature

2020 Regular Session

By House Environment & Energy (originally sponsored by Representatives Doglio, DeBolt, Fey, Lekanoff, Fitzgibbon, Shewmake, Leavitt, Ramel, Ryu, Tarleton, Appleton, Ramos, Slatter, Ormsby, Macri, Wylie, Kloba, Goodman, Peterson, Hudgins, Pollet, and Tharinger)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to expanding equitable access to the benefits of
2 renewable energy through community solar projects; amending RCW
3 82.16.130, 82.16.160, 82.16.165, 82.16.170, 82.16.110, 82.16.120,
4 82.16.150, and 82.16.155; adding new sections to chapter 82.16 RCW;
5 creating new sections; providing expiration dates; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares
9 that stimulating local investment in community solar projects
10 continues to be an important part of a state energy strategy by
11 helping to increase energy independence from fossil fuels, promote
12 economic development, hedge against the effects of climate change,
13 and attain environmental benefits. The legislature finds that while
14 previous community solar programs were successful in stimulating
15 these benefits, the programs failed to provide an adequate framework
16 for low-income participation and long-term market certainty. The
17 legislature finds that the vast majority of Washingtonians still do
18 not have access to the benefits of solar energy. The legislature
19 intends to stimulate the deployment of community solar projects for
20 the benefit of all Washingtonians by funding the renewable energy
21 production incentive program for community solar projects and by

1 creating opportunities for broader participation, especially by low-
2 income households and low-income service providers. As of December
3 2019, the state is thirteen megawatts short of the one hundred
4 fifteen megawatts of solar photovoltaic capacity established as a
5 goal under RCW 82.16.155. The legislature therefore intends to
6 provide an incentive sufficient to promote installation of community
7 solar projects through June 30, 2031, at which point the legislature
8 expects to review the effectiveness of enhancing access to community
9 solar projects.

10 (2) The legislature finds that participation of low-income
11 customers in community solar projects is consistent with the goals
12 and intent of the energy assistance provisions of chapter 19.405 RCW,
13 the Washington clean energy transformation act, when this
14 participation achieves a reduction in energy burden for the
15 customers.

16 (3) The legislature also finds that offering energy assistance
17 through renewable energy programs, including community solar, at a
18 discount to low-income customers is consistent with the goal and
19 intent of RCW 80.28.068.

20 **Sec. 2.** RCW 82.16.130 and 2017 3rd sp.s. c 36 s 4 are each
21 amended to read as follows:

22 (1) A light and power business is allowed a credit against taxes
23 due under this chapter in an amount equal to:

24 (a) Incentive payments made in any fiscal year under RCW
25 82.16.120 and 82.16.165; and

26 (b) Any fees a utility is allowed to recover pursuant to RCW
27 82.16.165(5).

28 (2) The credits must be taken in a form and manner as required by
29 the department. The credit taken under this section for the fiscal
30 year may not exceed one and one-half percent of the (~~businesses~~)
31 business's taxable power sales generated in calendar year 2014 and
32 due under RCW 82.16.020(1)(b) or two hundred fifty thousand dollars,
33 whichever is greater, for incentive payments made for the following:

34 (a) Renewable energy systems, other than community solar
35 projects, that are certified for an incentive payment as of June 30,
36 2020; and

37 (b) Community solar projects that are under precertification
38 status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are

1 certified for an incentive payment in accordance with the terms of
2 that precertification by June 30, 2021.

3 (3) The credit may not exceed the tax that would otherwise be due
4 under this chapter. Refunds may not be granted in the place of
5 credits. Expenditures not used to earn a credit in one fiscal year
6 may not be used to earn a credit in subsequent years.

7 (4) For any business that has claimed credit for amounts that
8 exceed the correct amount of the incentive payable under RCW
9 82.16.120, the amount of tax against which credit was claimed for the
10 excess payments is immediately due and payable. The department may
11 deduct amounts due from future credits claimed by the business.

12 (a) Except as provided in (b) of this subsection, the department
13 must assess interest but not penalties on the taxes against which the
14 credit was claimed. Interest must be assessed at the rate provided
15 for delinquent excise taxes under chapter 82.32 RCW, retroactively to
16 the date the credit was claimed, and accrues until the taxes against
17 which the credit was claimed are repaid.

18 (b) A business is not liable for excess payments made in reliance
19 on amounts reported by the Washington State University extension
20 energy program as due and payable as provided under RCW
21 82.16.165(20), if such amounts are later found to be abnormal or
22 inaccurate due to no fault of the business.

23 (5) The amount of credit taken under this section is not
24 confidential taxpayer information under RCW 82.32.330 and is subject
25 to disclosure.

26 (6) The right to earn tax credits for incentive payments made
27 under RCW 82.16.120 expires June 30, 2020. Credits may not be claimed
28 after June 30, 2021.

29 (7) (a) The right to earn tax credits for incentive payments made
30 under RCW 82.16.165 for the following expires June 30, 2029:

31 (i) Renewable energy systems, other than community solar
32 projects, that are certified for an incentive payment as of June 30,
33 2020; and

34 (ii) Community solar projects that are under precertification
35 status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are
36 certified for an incentive payment in accordance with the terms of
37 that precertification by June 30, 2021.

38 (b) Credits may not be claimed after June 30, 2030.

39 (8) This section expires June 30, 2031.

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

3 (1) Beginning July 1, 2020, a light and power business is allowed
4 a credit against taxes due under this chapter in an amount equal to
5 incentive payments made in any fiscal year under section 7 of this
6 act.

7 (2) The credits must be taken in a form and manner as required by
8 the department. The credit taken under this section for the fiscal
9 year may not exceed one and one-half percent of the business's
10 taxable power sales generated in calendar year 2014 and due under RCW
11 82.16.020(1)(b) or two hundred fifty thousand dollars, whichever is
12 greater, for incentive payments made for community solar projects
13 that submit an application for precertification under section 7 of
14 this act on or after July 1, 2020, and that are certified for an
15 incentive payment in accordance with the terms of that
16 precertification by June 30, 2031.

17 (3) The credit may not exceed the tax that would otherwise be due
18 under this chapter. Refunds may not be granted in the place of
19 credits. Expenditures not used to earn a credit in one fiscal year
20 may not be used to earn a credit in subsequent years.

21 (4) For any business that has claimed credit for amounts that
22 exceed the correct amount of the incentive payable under section 7 of
23 this act, the amount of tax against which credit was claimed for the
24 excess payments is immediately due and payable. The department may
25 deduct amounts from future credits claimed by the business.

26 (a) Except as provided in (b) of this subsection, the department
27 must assess interest but not penalties on the taxes against which the
28 credit was claimed. Interest may be assessed at the rate provided for
29 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
30 date the credit was claimed, and accrues until the taxes against
31 which the credit was claimed are repaid.

32 (b) A business is not liable for excess payments made in reliance
33 on amounts reported by the Washington State University extension
34 energy program as due and payable as provided under section 7 of this
35 act, if such amounts are later found to be abnormal or inaccurate due
36 to no fault of the business.

37 (5) The amount of credit taken under this section is not
38 confidential taxpayer information under RCW 82.32.330 and is subject
39 to disclosure.

1 (6) The right to earn tax credits for incentive payments made
2 under section 7 of this act expires June 30, 2034. Credits may not be
3 claimed under this section after June 30, 2035.

4 (7) This section expires June 30, 2036.

5 **Sec. 4.** RCW 82.16.160 and 2017 3rd sp.s. c 36 s 5 are each
6 amended to read as follows:

7 (1) The definitions in this section apply throughout this section
8 and RCW 82.16.165(~~(, 82.16.170,)~~) and 82.16.175 unless the context
9 clearly requires otherwise.

10 ~~((1))~~ (a) "Administrator" means the utility, nonprofit, or
11 other local housing authority that organizes and administers a
12 community solar project as provided in RCW 82.16.165 and 82.16.170.

13 ~~((2))~~ (b) "Certification" means the authorization issued by the
14 Washington State University extension energy program establishing a
15 person's eligibility to receive annual incentive payments from the
16 person's utility for the program term.

17 ~~((3))~~ (c) "Commercial-scale system" means a renewable energy
18 system or systems other than a community solar project or a shared
19 commercial solar project with a combined nameplate capacity greater
20 than twelve kilowatts that meets the applicable system eligibility
21 requirements established in RCW 82.16.165.

22 ~~((4))~~ (d) "Community solar project" means a solar energy system
23 that has a direct current nameplate generating capacity that is no
24 larger than one thousand kilowatts and meets the applicable
25 eligibility requirements established in RCW 82.16.165 and 82.16.170.

26 ~~((5))~~ (e) "Consumer-owned utility" has the same meaning as in
27 RCW 19.280.020.

28 ~~((6))~~ (f) "Customer-owner" means the owner of a residential-
29 scale or commercial-scale renewable energy system, where such owner
30 is not a utility and such owner is a customer of the utility and
31 either owns the premises where the renewable energy system is
32 installed or occupies the premises.

33 ~~((7))~~ (g) "Electric utility" or "utility" means a consumer-
34 owned utility or investor-owned utility as those terms are defined in
35 RCW 19.280.020.

36 ~~((8))~~ (h) "Governing body" has the same meaning as provided in
37 RCW 19.280.020.

38 ~~((9))~~ (i) "Person" means any individual, firm, partnership,
39 corporation, company, association, agency, or any other legal entity.

1 ~~((10))~~ (j) "Program term" means: ~~((a))~~ (i) For community
2 solar projects that are certified under RCW 82.16.165, eight years or
3 until cumulative incentive payments for electricity produced by the
4 project reach fifty percent of the total system price, including
5 applicable sales tax, whichever occurs first; and ~~((b))~~ (ii) for
6 other renewable energy systems, including shared commercial solar
7 projects, eight years or until cumulative incentive payments for
8 electricity produced by a system reach fifty percent of the total
9 system price, including applicable sales tax, whichever occurs first.

10 ~~((11))~~ (k) "Renewable energy system" means a solar energy
11 system, including a community solar project, an anaerobic digester as
12 defined in RCW 82.08.900, or a wind generator used for producing
13 electricity.

14 ~~((12))~~ (l) "Residential-scale system" means a renewable energy
15 system or systems located at a single situs with combined nameplate
16 capacity of twelve kilowatts or less that meets the applicable system
17 eligibility requirements established in RCW 82.16.165.

18 ~~((13))~~ (m) "Shared commercial solar project" means a solar
19 energy system, owned or administered by an electric utility, with a
20 combined nameplate capacity of greater than one megawatt and not more
21 than five megawatts and meets the applicable eligibility requirements
22 established in RCW 82.16.165 and 82.16.175.

23 (2) This section expires June 30, 2031.

24 **Sec. 5.** RCW 82.16.165 and 2017 3rd sp.s. c 36 s 6 are each
25 amended to read as follows:

26 (1) Beginning July 1, 2017, and through June 30, 2020, the
27 following persons may submit a one-time application to the Washington
28 State University extension energy program to receive a certification
29 authorizing the utility serving the situs of a renewable energy
30 system in the state of Washington to remit an annual production
31 incentive for each kilowatt-hour of alternating current electricity
32 generated by the renewable energy system:

33 (a) The utility's customer who is the customer-owner of a
34 residential-scale or commercial-scale renewable energy system;

35 (b) An administrator of a community solar project meeting the
36 eligibility requirements outlined in RCW 82.16.170(2) and applies for
37 certification on behalf of each of the project participants; or

38 (c) A utility or a business under contract with a utility that
39 administers a shared commercial solar project that meets the

1 eligibility requirements in RCW 82.16.175 and applies for
2 certification on behalf of each of the project participants.

3 (2) No person, business, or household is eligible to receive
4 incentive payments provided under subsection (1) of this section of
5 more than five thousand dollars per year for residential systems or
6 community solar projects, twenty-five thousand dollars per year for
7 commercial-scale systems, or thirty-five thousand dollars per year
8 for shared commercial solar projects.

9 (3) (a) No new certification may be issued under this section to
10 an applicant who submits a request for or receives an annual
11 incentive payment for a renewable energy system that was certified
12 under RCW 82.16.120, or for a renewable energy system served by a
13 utility that has elected not to participate in the incentive program,
14 as provided in subsection (4) of this section.

15 (b) The Washington State University extension energy program may
16 issue a new certification for an additional system installed at a
17 situs with a previously certified system so long as the new system
18 meets the requirements of this section and its production can be
19 measured separately from the previously certified system.

20 (c) The Washington State University extension energy program may
21 issue a recertification for a residential-scale or commercial-scale
22 system if a customer makes investments resulting in an expansion of
23 the system's nameplate capacity. Such recertification expires on the
24 same day as the original certification for the residential-scale or
25 commercial-scale system and applies to the entire system the
26 incentive rates and program rules in effect as of the date of the
27 recertification.

28 (4) A utility's participation in the incentive program provided
29 in this section is voluntary.

30 (a) A utility electing to participate in the incentive program
31 must notify the Washington State University extension energy program
32 of such election in writing.

33 (b) The utility may terminate its voluntary participation in the
34 production incentive program by providing notice in writing to the
35 Washington State University extension energy program to cease issuing
36 new certifications for renewable energy systems that would be served
37 by that utility.

38 (c) Such notice of termination of participation is effective
39 after fifteen days, at which point the Washington State University
40 extension energy program may not accept new applications for

1 certification of renewable energy systems that would be served by
2 that utility.

3 (d) Upon receiving a utility's notice of termination of
4 participation in the incentive program, the Washington State
5 University extension energy program must report on its web site that
6 customers of that utility are no longer eligible to receive new
7 certifications under the program.

8 (e) A utility's termination of participation does not affect the
9 utility's obligation to continue to make annual incentive payments
10 for electricity generated by systems that were certified prior to the
11 effective date of the notice. The Washington State University
12 extension energy program must continue to process and issue
13 certifications for renewable energy systems that were received by the
14 Washington State University extension energy program before the
15 effective date of the notice of termination.

16 (f) A utility that has terminated participation in the program
17 may resume participation upon filing notice with the Washington State
18 University extension energy program.

19 (5)(a) The Washington State University extension energy program
20 may certify a renewable energy system that is connected to equipment
21 capable of measuring the electricity production of the system and
22 interconnecting with the utility's system in a manner that allows the
23 utility, or the customer at the utility's option, to measure and
24 report to the Washington State University extension energy program
25 the total amount of electricity produced by the renewable energy
26 system.

27 (b) The Washington State University extension energy program must
28 establish a reporting and fee-for-service system to accept
29 electricity production data from the utility or the customer that is
30 not reported electronically and with the reporting entity selected at
31 the utility's option as described in subsection (19) of this section.
32 The fee-for-service agreement must allow for electronic reporting or
33 reporting by mail, may be specific to individual utilities, and must
34 recover only the program's costs of obtaining the electricity
35 production data and incorporating it into an electronic format. A
36 statement of the amount due for the fee-for-service must be provided
37 to the utility by the Washington State University extension energy
38 program with the report provided to the utility pursuant to
39 subsection (20)(a) of this section. The utility may determine how to
40 assess and remit the fee, and the utility may be allowed a credit for

1 fees paid under this subsection (5) against taxes due, as provided in
2 RCW 82.16.130(1).

3 (6) The Washington State University extension energy program may
4 issue a certification authorizing annual incentive payments up to the
5 following annual dollar limits:

6 (a) For community solar projects, five thousand dollars per
7 project participant;

8 (b) For residential-scale systems, five thousand dollars;

9 (c) For commercial-scale systems, twenty-five thousand dollars;
10 and

11 (d) For shared commercial solar projects, up to thirty-five
12 thousand dollars a year per participant, as determined by the terms
13 of subsection (15) of this section.

14 (7) (a) To obtain certification for the incentive payment provided
15 under subsection (1) of this section by June 30, 2020, for renewable
16 energy systems other than community solar projects, or by June 30,
17 2021, for community solar projects, a person must submit to the
18 Washington State University extension energy program an application,
19 including:

20 (i) A signed statement that the applicant has not previously
21 received a notice of eligibility from the department under RCW
22 82.16.120 entitling the applicant to receive annual incentive
23 payments for electricity generated by the renewable energy system at
24 the same meter location;

25 (ii) A signed statement of the total price, including applicable
26 sales tax, paid by the applicant for the renewable energy system;

27 (iii) System operation data including global positioning system
28 coordinates, tilt, estimated shading, and azimuth;

29 (iv) Any other information the Washington State University
30 extension energy program deems necessary in determining eligibility
31 and incentive levels, administering the program, tracking progress
32 toward achieving the limits on program participation established in
33 RCW 82.16.130, or facilitating the review of the performance of the
34 tax preferences by the joint legislative audit and review committee,
35 as described in RCW 82.16.155; and

36 (v) (A) Except as provided in (a) (v) (B) of this subsection (7),
37 the date that the renewable energy system received its final
38 electrical inspection from the applicable local jurisdiction, as well
39 as a copy of the permit or, if the permit is available online, the
40 permit number;

1 (B) The Washington State University extension energy program may
2 waive the requirement in (a)(v)(A) of this subsection (7), accepting
3 an application and granting provisional certification prior to proof
4 of final electrical inspection. Provisional certification expires one
5 hundred eighty days after issuance, unless the applicant submits
6 proof of the final electrical inspection from the applicable local
7 jurisdiction or the Washington State University extension energy
8 program extends the certification, for a term or terms of thirty
9 days, due to extenuating circumstances; and

10 (b)(i) Prior to obtaining certification under this subsection, a
11 community solar project or shared commercial solar project must apply
12 for precertification against the remaining funds available for
13 incentive payments under subsection (13)(d) of this section in order
14 to be guaranteed an incentive payment under subsection (1) of this
15 section. Community solar projects that are under precertification
16 status under this subsection (7) as of June 30, 2020, may not apply
17 for precertification for the incentive payment provided under section
18 7 of this act for that same project;

19 (ii) A project applicant of a community solar project or shared
20 commercial solar project must complete an application for
21 certification with the Washington State University extension energy
22 program within less than (~~one year~~) two years to retain the
23 precertification status described in this subsection. If a community
24 solar project application is in precertification status as of June
25 30, 2020, the project applicant must continue in that status until
26 either it is certified by the Washington State University extension
27 energy program or its precertification expires; and

28 (iii) The Washington State University extension energy program
29 may design a reservation or precertification system for an applicant
30 of a residential-scale or commercial-scale renewable energy system.

31 (8) No incentive payments may be authorized or accrued until the
32 final electrical inspection and executed interconnection agreement
33 are submitted to the Washington State University extension energy
34 program.

35 (9) Within thirty days of receipt of (~~the~~) an application for
36 certification, the Washington State University extension energy
37 program must notify the applicant and, except when a utility is the
38 applicant, the utility serving the situs of the renewable energy
39 system, by mail or electronically, whether certification has been
40 granted. The certification notice must state the rate to be paid per

1 kilowatt-hour of electricity generated by the renewable energy
2 system, as provided in subsection (12) of this section, subject to
3 any applicable cap on total annual payment provided in subsection (6)
4 of this section.

5 (10) Certification is valid for the program term and entitles the
6 applicant or, in the case of a community solar project or shared
7 commercial solar project, the participant, to receive incentive
8 payments for electricity generated from the date the renewable energy
9 system commences operation, or the date the system is certified,
10 whichever date is later. For purposes of this subsection, the
11 Washington State University extension energy program must define when
12 a renewable energy system commences operation and provide notice of
13 such date to the recipient and the utility serving the situs of the
14 system. Certification may not be retroactively changed except to
15 correct later discovered errors that were made during the original
16 application or certification process.

17 (11)(a) System certification follows the system if the following
18 conditions are met using procedures established by the Washington
19 State University extension energy program:

20 (i) The renewable energy system is transferred to a new owner who
21 notifies the Washington State University extension energy program of
22 the transfer; and

23 (ii) The new owner provides an executed interconnection agreement
24 with the utility serving the premises.

25 (b) In the event that a community solar project participant
26 terminates their participation in a community solar project, the
27 system certification follows the system and participation may be
28 transferred to a new participant. The administrator of a community
29 solar project must provide notice to the Washington State University
30 extension energy program of any changes or transfers in project
31 participation.

32 (12) The Washington State University extension energy program
33 must determine the total incentive rate for ~~((a new renewable energy
34 system certification by adding to the base rate any applicable made-
35 in-Washington bonus rate))~~ renewable energy systems, other than a
36 community solar project, certified through June 30, 2020, and for
37 community solar projects precertified as of June 30, 2020, and
38 certified through June 30, 2021, as provided in this subsection. A
39 made-in-Washington bonus rate is provided for a renewable energy
40 system or a community solar project certified through June 30, 2019,

1 with solar modules made in Washington or with a wind turbine or tower
 2 that is made in Washington. Both the base rates and bonus rate vary,
 3 depending on the fiscal year in which the system is certified and the
 4 type of renewable energy system being certified, as provided in the
 5 following table:

6	Fiscal year	Base rate -	Base rate -	Base rate -	Base rate - shared	Made in
7	of system	residential-scale	commercial-scale	community solar	commercial solar	Washington
8	certification					bonus
9	2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
10	2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
11	2020	\$0.12	\$0.02	\$0.12	\$0.02	(\$0.03)
12	2021	(\$0.10)	(\$0.02)	\$0.10	(\$0.02)	(\$0.02)

13 (13) The Washington State University extension energy program
 14 must cease to issue new certifications:

15 (a) For community solar projects and shared commercial solar
 16 projects in any fiscal year for which the Washington State University
 17 extension energy program estimates that fifty percent of the
 18 remaining funds for credit available to a utility for renewable
 19 energy systems certified under this section as of July 1, 2017, have
 20 been allocated to community solar projects and shared commercial
 21 solar projects combined;

22 (b) For commercial-scale systems in any fiscal year for which the
 23 Washington State University extension energy program estimates that
 24 twenty-five percent of the remaining funds for credit available to a
 25 utility for renewable energy systems certified under this section as
 26 of July 1, 2017, have been allocated to commercial-scale systems;

27 (c) For any renewable energy system served by a utility, if
 28 certification is likely to result in incentive payments by that
 29 utility, including payments made under RCW 82.16.120, exceeding the
 30 utility's available funds for credit under RCW 82.16.130; and

31 (d) For any renewable energy system, if certification is likely
 32 to result in total incentive payments under this section exceeding
 33 one hundred ten million dollars.

34 (14) If the Washington State University extension energy program
 35 ceases issuing new certifications during a fiscal year or biennium as
 36 provided in subsection (13) of this section, in the following fiscal
 37 year or biennium, or when additional funds are available for credit
 38 such that the thresholds described in subsection (13) of this section

1 are no longer exceeded, the Washington State University extension
2 energy program must resume issuing new certifications using a method
3 of awarding certifications that results in equitable and orderly
4 allocation of benefits to applicants.

5 (15) A customer who is a participant in a shared commercial solar
6 project may not receive incentive payments associated with the
7 project greater than the difference between the levelized cost of
8 energy output of the system over its production life and the retail
9 rate for the rate class to which the customer belongs. The levelized
10 cost of the output of the energy must be determined by the utility
11 that administers the shared commercial solar project and must be
12 disclosed, along with an explanation of the limitations on incentive
13 payments contained in this subsection (15), in the contractual
14 agreement with the shared commercial solar project participants.

15 (16) In order to begin to receive annual incentive payments, a
16 person who has been issued a certification for the incentive as
17 provided in subsection (9) of this section must obtain an executed
18 interconnection agreement with the utility serving the situs of the
19 renewable energy system.

20 (17) The Washington State University extension energy program
21 must establish a list of equipment that is eligible for the bonus
22 rates described in subsection (12) of this section. The Washington
23 State University extension energy program must, in consultation with
24 the department of commerce, develop technical specifications and
25 guidelines to ensure consistent and predictable determination of
26 eligibility. A solar module is made in Washington for purposes of
27 receiving the bonus rate only if the lamination of the module takes
28 place in Washington. A wind turbine is made in Washington only if it
29 is powered by a turbine or built with a tower manufactured in
30 Washington.

31 (18) The manufacturer of a renewable energy system component
32 subject to a bonus rate under subsection (12) of this section may
33 apply to the Washington State University extension energy program to
34 receive a determination of eligibility for such bonus rates. The
35 Washington State University extension energy program must publish a
36 list of components that have been certified as eligible for such
37 bonus rates. The Washington State University extension energy program
38 may assess an equipment certification fee to recover its costs. The
39 Washington State University extension energy program must deposit all
40 revenue generated by this fee into the state general fund.

1 (19) Annually, the utility must report electronically to the
2 Washington State University extension energy program the amount of
3 gross kilowatt-hours generated by each renewable energy system since
4 the prior annual report. For the purposes of this section, to report
5 electronically means to submit statistical or factual information in
6 alphanumeric form through a web site established by the Washington
7 State University extension energy program or in a list, table,
8 spreadsheet, or other nonnarrative format that can be digitally
9 transmitted or processed. The utility may instead opt to report by
10 mail or require program participants to report individually, but if
11 the utility exercises one or more of these options it must negotiate
12 with the Washington State University extension energy program the
13 fee-for-service arrangement described in subsection (5)(b) of this
14 section.

15 (20)(a) The Washington State University extension energy program
16 must calculate for the year and provide to the utility the amount of
17 the incentive payment due to each participant and the total amount of
18 credit against tax due available to the utility under RCW 82.16.130
19 that has been allocated as annual incentive payments. Upon notice to
20 the Washington State University extension energy program, a utility
21 may opt to directly perform this calculation and provide its results
22 to the Washington State University extension energy program.

23 (b) If the Washington State University extension energy program
24 identifies an abnormal production claim, it must notify the utility,
25 the department of revenue, and the applicant, and must recommend
26 withholding payment until the applicant has demonstrated that the
27 production claim is accurate and valid. The utility is not liable to
28 the customer for withholding payments pursuant to such recommendation
29 unless and until the Washington State University extension energy
30 program notifies the utility to resume incentive payments.

31 (21)(a) The utility must issue the incentive payment within
32 ninety days of receipt of the information required under subsection
33 (20)(a) of this section from the Washington State University
34 extension energy program. The utility must resume the incentive
35 payments withheld under subsection (20)(b) of this section within
36 thirty days of receiving notice from the Washington State University
37 extension energy program that the claim has been demonstrated
38 accurate and valid and payment should be resumed.

39 (b) A utility is not liable for incentive payments to a customer-
40 owner if the utility has disconnected the customer due to a violation

1 of a customer service agreement, such as nonpayment of the customer's
2 bill, or a violation of an interconnection agreement.

3 (22) Beginning January 1, 2018, the Washington State University
4 extension energy program must post on its web site and update at
5 least monthly a report, by utility, of:

6 (a) The number of certifications issued for renewable energy
7 systems, including estimated system sizes, costs, and annual energy
8 production and incentive yields for various system types; and

9 (b) An estimate of the amount of credit that has not yet been
10 allocated for incentive payments under each utility's credit limit
11 and remains available for new renewable energy system certifications.

12 (23) Persons receiving incentive payments under this section must
13 keep and preserve, for a period of five years for the duration of the
14 consumer contract, suitable records as may be necessary to determine
15 the amount of incentive payments applied for and received. The
16 Washington State University extension energy program may direct a
17 utility to cease issuing incentive payments if the records are not
18 made available for examination upon request. A utility receiving such
19 a directive is not liable to the applicant for any incentive payments
20 or other damages for ceasing payments pursuant to the directive.

21 (24) The nonpower attributes of the renewable energy system
22 belong to the utility customer who owns or hosts the system or, in
23 the case of a community solar project or a shared commercial solar
24 project, the participant, and can be kept, sold, or transferred at
25 the utility customer's discretion unless, in the case of a utility-
26 owned community solar or shared commercial solar project, a contract
27 between the customer and the utility clearly specifies that the
28 attributes will be retained by the utility.

29 (25) All lists, technical specifications, determinations, and
30 guidelines developed under this section must be made publicly
31 available online by the Washington State University extension energy
32 program.

33 (26) No certification may be issued under this section by the
34 Washington State University extension energy program for any
35 renewable energy system, other than a community solar project, after
36 June 30, ((2021)) 2020. No certification may be issued under this
37 section for any community solar project after June 30, 2021.

38 (27) The Washington State University extension energy program
39 must collect a one-time fee for applications submitted under
40 subsection (1) of this section of one hundred twenty-five dollars per

1 applicant. The Washington State University extension energy program
2 must deposit all revenue generated by this fee into the state general
3 fund. The Washington State University extension energy program must
4 administer and budget for the program established in RCW 82.16.120,
5 this section, and RCW 82.16.170 in a manner that ensures its
6 administrative costs through June 30, 2022, are completely met by the
7 revenues from this fee. If the Washington State University extension
8 energy program determines that the fee authorized in this subsection
9 is insufficient to cover the administrative costs through June 30,
10 2022, the Washington State University extension energy program must
11 report to the legislature on costs incurred and fees collected and
12 demonstrate why a different fee amount or funding mechanism should be
13 authorized.

14 (28) The Washington State University extension energy program
15 may, through a public process, develop any program requirements,
16 policies, and processes necessary for the administration or
17 implementation of this section, RCW 82.16.120, 82.16.155, and
18 82.16.170. The department is authorized, in consultation with the
19 Washington State University extension energy program, to adopt any
20 rules necessary for administration or implementation of the program
21 established under this section and RCW 82.16.170.

22 (29) Applications, certifications, requests for incentive
23 payments under this section, and the information contained therein
24 are not deemed tax information under RCW 82.32.330 and are subject to
25 disclosure.

26 (30)(a) By November 1, 2019, and in compliance with RCW
27 43.01.036, the Washington State University extension energy program
28 must submit a report to the legislature that includes the following:

29 (i) The number and types of renewable energy systems that have
30 been certified under this section as of July 1, 2019, both statewide
31 and per participating utility;

32 (ii) The number of utilities that are approaching or have reached
33 the credit limit established under RCW 82.16.130(2) or the thresholds
34 established under subsection (13) of this section;

35 (iii) The share of renewable energy systems by type that
36 contribute to each utility's threshold under subsection (13) of this
37 section;

38 (iv) An assessment of the deployment of community solar projects
39 in the state, including but not limited to the following:

1 (A) An evaluation of whether or not community solar projects are
2 being deployed in low-income and moderate-income communities, as
3 those terms are defined in RCW 43.63A.510, including a description of
4 any barriers to project deployment in these communities;

5 (B) A description of the share of community solar projects by
6 administrator type that contribute to each utility's threshold under
7 subsection (13)(a) of this section; and

8 (C) A description of any barriers to participation by nonprofits
9 and local housing authorities in the incentive program established
10 under this section and under RCW 82.16.170;

11 (v) The total dollar amount of incentive payments that have been
12 made to participants in the incentive program established under this
13 section to date; and

14 (vi) The total number of megawatts of solar photovoltaic capacity
15 installed to date by participants in the incentive program
16 established under this section.

17 (b) By December 31, 2019, the legislature must review the report
18 submitted under (a) of this subsection and determine whether the
19 credit limit established under RCW 82.16.130(2) should be increased
20 to two percent of a light and power business's taxable power sales
21 generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or
22 two hundred fifty thousand dollars, whichever is greater, in order to
23 achieve the legislative intent under section 1, chapter 36, Laws of
24 2017 3rd sp. sess.

25 (31) This section expires June 30, 2031.

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

28 (1) The definitions in this section apply throughout this section
29 and section 7 of this act unless the context clearly requires
30 otherwise.

31 (a) "Administrator" means the utility, nonprofit, or other local
32 housing authority that organizes and administers a community solar
33 project as provided in section 7 of this act and RCW 82.16.170.

34 (b) "Certification" means the authorization issued by the
35 Washington State University extension energy program establishing a
36 community solar project administrator's eligibility to receive a low-
37 income community solar incentive payment from the electric utility
38 serving the site of the community solar project, on behalf of, and
39 for the purpose of providing direct benefits to, its low-income

1 subscribers, low-income service provider subscribers, and tribal and
2 public agency subscribers.

3 (c) "Community solar project" means a solar energy system that:

4 (i) Has an alternating current nameplate capacity that is greater
5 than twelve kilowatts but no greater than one hundred ninety-nine
6 kilowatts;

7 (ii) Has, at minimum, either two subscribers or one low-income
8 service provider subscriber; and

9 (iii) Meets the applicable eligibility requirements in section 7
10 of this act and RCW 82.16.170.

11 (d) "Consumer-owned utility" has the same meaning as in RCW
12 19.280.020.

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

16 (f) "Energy assistance" has the same meaning as provided in RCW
17 19.405.020.

18 (g) "Energy burden" has the same meaning as provided in RCW
19 19.405.020.

20 (h) "Governing body" has the same meaning as provided in RCW
21 19.280.020.

22 (i) "Low-income" has the same meaning as provided in RCW
23 19.405.020.

24 (j) "Low-income service provider" includes, but is not limited
25 to, a local community action agency or local community service agency
26 designated by the department of commerce under chapter 43.63A RCW,
27 local housing authority, tribal housing authority, low-income tribal
28 housing program, affordable housing provider, food bank, or other
29 nonprofit organization that provides services to low-income
30 households.

31 (k) "Multifamily residential building" means a building
32 containing more than two sleeping units or dwelling units where
33 occupants are primarily permanent in nature.

34 (l) "Person" means an individual, firm, partnership, corporation,
35 company, association, agency, or any other legal entity.

36 (m) "Public agency" means any political subdivision of the state
37 including, but not limited to, municipal and county governments,
38 special purpose districts, and local housing authorities, but does
39 not include state agencies.

1 (n)(i) Except as otherwise provided in (n)(ii) of this
2 subsection, "qualifying subscriber" means a low-income subscriber,
3 low-income service provider subscriber, tribal agency subscriber, or
4 public agency subscriber.

5 (ii) For tribal agency subscribers and public agency subscribers,
6 only the portion of their subscription to a community solar project
7 that is demonstrated to benefit low-income beneficiaries, including
8 low-income service providers and services provided to low-income
9 citizens or households, is to be considered a qualifying subscriber.

10 (o) "Subscriber" means a retail electric customer of an electric
11 utility who owns or is the beneficiary of one or more subscriptions
12 or ownership shares of a community solar project directly
13 interconnected with that same utility.

14 (p) "Subscription" means an agreement between a subscriber and
15 the administrator of a community solar project.

16 (2) This section expires June 30, 2036.

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

19 (1) Beginning July 1, 2020, through June 30, 2031, an
20 administrator of a community solar project meeting the eligibility
21 requirements described in this section and RCW 82.16.170(3) may
22 submit an application to the Washington State University extension
23 energy program to receive a precertification for a community solar
24 project. Projects with precertification applications approved by the
25 Washington State University extension energy program have two years
26 to complete their projects and apply for certification. By certifying
27 qualified projects pursuant to the requirements of this section and
28 RCW 82.16.170(3), the Washington State University extension energy
29 program authorizes the utility serving the site of a community solar
30 project in the state of Washington to remit a one-time low-income
31 community solar incentive payment to the community solar project
32 administrator, who accepts the payment on behalf of, and for the
33 purpose of providing direct benefits to, the project's qualifying
34 subscribers.

35 (2) A one-time low-income community solar incentive payment
36 remitted to a community solar project administrator for a project
37 certified under this section equals the sum of the following:

38 (a) An amount, not to exceed twenty thousand dollars per
39 community solar project, equal to the community solar project's

1 administrative costs related to administering the project for
2 qualifying subscribers; and

3 (b) An amount that does not exceed one hundred percent of the
4 proportional cost of the share of the community solar project that
5 provides direct benefits to qualifying subscribers.

6 (3) No new certification may be issued under this section to an
7 applicant who receives an annual incentive payment for a community
8 solar project that was certified under RCW 82.16.120 or 82.16.165, or
9 for a community solar project served by a utility that has elected
10 not to participate in the incentive program provided in this section.

11 (4) Community solar projects that are under precertification
12 status under RCW 82.16.165 as of June 30, 2020, may not apply for
13 precertification of that same project for the one-time low-income
14 community solar incentive payment provided in this section.

15 (5)(a) In addition to the one-time low-income community solar
16 incentive payment under subsection (2) of this section, a
17 participating utility must also provide the administrator of a
18 community solar project certified under this section the following
19 compensation for the generation of electricity from the certified
20 project:

21 (i) For a community solar project that has an alternating current
22 nameplate capacity greater than twelve kilowatts but no greater than
23 one hundred kilowatts, and that is connected behind the electric
24 service meter, compensation must be determined in accordance with RCW
25 80.60.020.

26 (ii) For a community solar project that has an alternating
27 current nameplate capacity greater than one hundred kilowatts but no
28 greater than one hundred ninety-nine kilowatts, compensation must be
29 determined at a rate set by the participating utility.

30 (b) A utility may authorize the administrator of a community
31 solar project to provide compensation for the generation of
32 electricity from a certified project to the project subscribers on
33 behalf of the utility. The administrator must provide the utility
34 with signed statements of the following:

35 (i) The production meter reading for the period for which
36 compensation is to be provided;

37 (ii) Each subscriber's share of the project;

38 (iii) The amount to be dispersed to each subscriber for the
39 period; and

40 (iv) The date and amount dispersed to each subscriber.

1 (6) A utility's participation in the incentive program provided
2 in this section is voluntary.

3 (a) A utility electing to participate in the incentive program
4 must notify the Washington State University extension energy program
5 of such election in writing.

6 (b) The utility may terminate its voluntary participation in the
7 program by providing notice in writing to the Washington State
8 University extension energy program to cease accepting new
9 applications for precertification for community solar projects that
10 would be served by that utility. Such notice of termination of
11 participation is effective after fifteen days, at which point the
12 Washington State University extension energy program may not accept
13 new applications for precertification for community solar projects
14 that would be served by that utility.

15 (c) Upon receiving a utility's notice of termination of
16 participation in the incentive program, the Washington State
17 University extension energy program must report on its web site that
18 community solar project customers of that utility are no longer
19 eligible to receive new certifications under the program.

20 (d) A utility that has terminated participation in the program
21 may resume participation upon filing a notice with the Washington
22 State University extension energy program.

23 (7)(a) The Washington State University extension energy program
24 may issue certifications authorizing incentive payments under this
25 section in a total statewide amount not to exceed twenty million
26 dollars, and subject to the following biennial dollar limits:

27 (i) For fiscal year 2021, three hundred thousand dollars; and

28 (ii) For each biennium beginning on or after July 1, 2021, five
29 million dollars.

30 (b) For the first year of each full biennium for which funds are
31 available for incentive payments, the amount available to each
32 utility to pay low-income community solar incentive payments to
33 community solar projects certified under this section is proportional
34 to the amount of electricity provided to each utility's retail
35 electric customers against the total retail sales of electricity by
36 all electric utilities in the state, obtained from the most recent
37 year in which a full year's data for retail sales of electricity in
38 the state is available from the United States energy information
39 administration. For the second year of each full biennium, any
40 amounts not reserved for precertified community solar projects in the

1 first year will be made available on a first-come, first-served basis
2 to utilities that have not reached the public utility tax credit
3 limit established under section 3(2) of this act.

4 (8)(a) Prior to obtaining certification under this section, the
5 administrator of a community solar project must apply for
6 precertification against the funds available for incentive payments
7 under subsection (7) of this section in order to be guaranteed an
8 incentive payment under this section. The application for
9 precertification must include, at a minimum:

10 (i) A demonstration of how the project will deliver direct
11 benefits to low-income subscribers. A direct benefit can include
12 credit for the power generation for the community solar project or
13 from sales of renewable energy credits, a low-income specific
14 discount, or other mechanisms that lower the energy burden of a low-
15 income subscriber; and

16 (ii) Any other information the Washington State University
17 extension energy program deems necessary in determining eligibility
18 for precertification.

19 (b) The administrator of a community solar project must complete
20 an application for certification in accordance with the requirements
21 of subsection (9) of this section within less than two years of being
22 approved for precertification status. The administrator must submit a
23 project update to the Washington State University extension energy
24 program after one year in precertification status.

25 (9) To obtain certification for the one-time low-income community
26 solar incentive payment provided under this section, a project
27 administrator must submit to the Washington State University
28 extension energy program an application, including, at a minimum:

29 (a) A signed statement that the applicant has not previously
30 received a notice of eligibility from the department under RCW
31 82.16.120 or the Washington State University extension energy program
32 under RCW 82.16.165 entitling the applicant to receive annual
33 incentive payments for electricity generated by the community solar
34 project at the same meter location;

35 (b) A signed statement of the costs paid by the administrator
36 related to administering the project for qualifying subscribers;

37 (c) A signed statement of the total project costs, including the
38 proportional cost of the share of the community solar project that
39 provides direct benefits to qualifying subscribers;

1 (d) A signed statement of the amount of direct benefits that will
2 be provided to low-income subscribers, other qualifying subscribers,
3 and subscribers who are not qualifying subscribers. The statement
4 must describe the timing, method, and estimated energy burden
5 reduction associated with the direct benefits. The statement must
6 also include a comparison of the amount of upfront incentive payment
7 to the amount of direct benefit paid to low-income subscribers;

8 (e) Available system operation data, such as global positioning
9 system coordinates, tilt, estimated shading, and azimuth;

10 (f) Any other information the Washington State University
11 extension energy program deems necessary in determining eligibility
12 and incentive levels or administering the program;

13 (g)(i) Except as provided in (g)(ii) of this subsection (9), the
14 date that the community solar project received its final electrical
15 inspection from the applicable local jurisdiction, as well as a copy
16 of the permit or, if the permit is available online, the permit
17 number;

18 (ii) The Washington State University extension energy program may
19 waive the requirement in (g)(i) of this subsection (9), accepting an
20 application and granting provisional certification prior to proof of
21 final electrical inspection. Provisional certification expires one
22 hundred eight days after issuance, unless the applicant submits proof
23 of the final electrical inspection from the applicable local
24 jurisdiction or the Washington State University extension energy
25 program extends certification, for a term or terms of thirty days,
26 due to extenuating circumstances;

27 (h) Confirmation of the number of qualifying subscribers; and

28 (i) Any other information the Washington State University
29 extension energy program deems necessary in determining eligibility
30 and incentive levels or administering the program.

31 (10) No incentive payments may be authorized or accrued until the
32 final electrical inspection and executed interconnection agreement
33 are submitted to the Washington State University extension energy
34 program.

35 (11)(a) The Washington State University extension energy program
36 must review each project for which an application for certification
37 is submitted in accordance with subsection (8) of this section for
38 reasonable cost and financial structure, with a targeted cost of
39 three dollars per watt of installed system capacity that is
40 designated for a community solar project's qualifying subscribers.

1 The Washington State University extension energy program may approve
2 an application for a project that costs more or less than three
3 dollars per watt of installed system capacity based on a review of
4 the project, documents submitted by the project applicant, and
5 available data. Project cost evaluations must exclude costs
6 associated with energy storage systems. Applicants may petition the
7 Washington State University extension energy program to approve a
8 higher cost per watt for unusual circumstances, except that such
9 costs may not include costs associated with energy storage systems.

10 (b) The Washington State University extension energy program may
11 review the cost per watt target under (a) of this subsection prior to
12 each fiscal biennium and is authorized to determine a new cost per
13 watt target.

14 (12)(a) Within thirty days of receipt of an application for
15 certification, the Washington State University extension energy
16 program must notify the applicant and, except when a utility is the
17 applicant, the utility serving the site of the community solar
18 project, by mail or electronically, whether certification has been
19 granted. The certification notice must state the total dollar amount
20 of the low-income community solar incentive payment for which the
21 applicant is eligible under this section.

22 (b) Within sixty days of receipt of a notification under (a) of
23 this subsection, the utility serving the site of the community solar
24 project must remit the applicable one-time low-income community solar
25 incentive payment to the project administrator, who accepts the
26 payment on behalf of, and for the purpose of providing direct
27 benefits to, the project's qualifying subscribers.

28 (13)(a) Certification follows the community solar project if the
29 following conditions are met using procedures established by the
30 Washington State University extension energy program:

31 (i) The community solar project is transferred to a new owner who
32 notifies the Washington State University extension energy program of
33 the transfer; and

34 (ii) The new owner provides an executed interconnection agreement
35 with the utility serving the site of the community solar project.

36 (b) In the event that a qualifying subscriber terminates their
37 participation in a community solar project, the system certification
38 follows the project and participation must be transferred to a new
39 qualifying subscriber.

1 (14) Beginning January 1, 2021, the Washington State University
2 extension energy program must post on its web site and update at
3 least monthly a report, by utility, of:

4 (a) The number of certifications issued for community solar
5 projects; and

6 (b) An estimate of the amount of credit that has not yet been
7 allocated for low-income community solar incentive payments under
8 each utility's credit limit and that remains available for new
9 community solar project certifications in the state.

10 (15) Persons receiving incentive payments under this section must
11 keep and preserve, for a period of five years for the duration of the
12 consumer contract, suitable records as may be necessary to determine
13 the amount of incentive payments applied for and received.

14 (16) The nonpower attributes of the community solar project
15 belong to the individual subscribers, and must be kept, sold, or
16 transferred at a subscriber's discretion, unless a contract between
17 the subscriber and administrator clearly specifies that the
18 attributes will be transferred to the administrator.

19 (17) All lists, technical specifications, determinations, and
20 guidelines developed under this section must be made publicly
21 available online by the Washington State University extension energy
22 program.

23 (18) The Washington State University extension energy program
24 must collect a one-time fee for precertification applications
25 submitted under this section of five hundred dollars per applicant.
26 The Washington State University extension energy program must deposit
27 all revenue generated by this fee into the state general fund.

28 (19) The Washington State University extension energy program
29 may, through a public process, develop program requirements,
30 policies, and processes necessary for the administration or
31 implementation of this section.

32 (20) Applications, certifications, requests for incentive
33 payments under this section, and the information contained therein
34 are not deemed tax information under RCW 82.32.330 and are subject to
35 disclosure.

36 (21) No certification may be issued under this section by the
37 Washington State University extension energy program for a community
38 solar project after June 30, 2033.

39 (22) This section expires June 30, 2036.

1 **Sec. 8.** RCW 82.16.170 and 2017 3rd sp.s. c 36 s 7 are each
2 amended to read as follows:

3 (1) The purpose of community solar programs is to facilitate
4 broad, equitable community investment in and access to solar power.
5 Beginning July 1, 2017, a community solar administrator may organize
6 and administer a community solar project as provided in this section.

7 (2) ~~((A))~~ In order to receive certification for the incentive
8 payment provided under RCW 82.16.165(1) by June 30, 2021, a community
9 solar project must have a direct current nameplate capacity that is
10 no more than one thousand kilowatts and must have at least ten
11 participants or one participant for every ten kilowatts of direct
12 current nameplate capacity, whichever is greater. A community solar
13 project that has a direct current nameplate capacity greater than
14 five hundred kilowatts must be subject to a standard interconnection
15 agreement with the utility serving the situs of the community solar
16 project. Except for community solar projects authorized under
17 subsection ~~((9))~~ (10) of this section, each participant must be a
18 customer of the utility providing service at the situs of the
19 community solar project.

20 (3) In order to receive certification for the incentive payment
21 provided under section 7 of this act beginning July 1, 2020, a
22 community solar project must meet the following requirements:

23 (a) The administrator of the community solar project must be a
24 utility, nonprofit, or other local housing authority. The
25 administrator of the community solar project must apply for
26 precertification under section 7 of this act on or after July 1,
27 2020;

28 (b) The community solar project must have an alternating current
29 nameplate capacity that is greater than twelve kilowatts but no
30 greater than one hundred ninety-nine kilowatts, and must have at
31 least two subscribers or one low-income service provider subscriber;

32 (c) The administrator of the community solar project must provide
33 a verified list of qualifying subscribers;

34 (d) Verification that an individual household subscriber meets
35 the definition of low-income must be provided to the administrator by
36 an entity with authority to maintain the confidentiality of the
37 income status of the low-income subscriber. If the providing entity
38 incurs costs to verify a subscriber's income status, the
39 administrator must provide reimbursement of those costs;

1 (e) Except for community solar projects authorized under
2 subsection (10) of this section, each subscriber must be a customer
3 of the utility providing service at the site of the community solar
4 project;

5 (f) In the event that a low-income subscriber in a community
6 solar project certified under section 7 of this act moves from the
7 household premises of the subscriber's current subscription to
8 another, the subscriber may continue the subscription, provided that
9 the new household premises is served by the utility providing service
10 at the site of the community solar project. In the event that a
11 subscriber is no longer served by that utility or the subscriber
12 terminates participation in a community solar project certified under
13 section 7 of this act, the certification follows the system and
14 participation may be transferred by the administrator to a new
15 qualifying subscriber;

16 (g) The administrator must include in the application for
17 precertification a project prospectus that demonstrates how the
18 administrator intends to provide direct benefits to qualifying
19 subscribers for the duration of their subscription to the community
20 solar project; and

21 (h) The length of the subscription term for low-income
22 subscribers must be the same length as for other subscribers, if
23 applicable.

24 (4) The administrator of a community solar project must
25 administer the project in a transparent manner that allows for fair
26 and nondiscriminatory opportunity for participation by utility
27 customers.

28 ~~((4))~~ (5) The administrator of a community solar project may
29 establish a reasonable fee to cover costs incurred in organizing and
30 administering the community solar project. Project participants,
31 prior to making the commitment to participate in the project, must be
32 given clear and conspicuous notice of the portion of the incentive
33 payment that will be used for this purpose.

34 ~~((5))~~ (6) The administrator of a community solar project must
35 maintain and update annually through June 30, 2030, the following
36 information for each project it operates or administers:

- 37 (a) Ownership information;
- 38 (b) Contact information for technical management questions;
- 39 (c) Business address;

1 (d) Project design details, including project location, output
2 capacity, equipment list, and interconnection information; and

3 (e) Subscription information, including rates, fees, terms, and
4 conditions.

5 ~~((+6))~~ (7) The administrator of a community solar project must
6 provide the information required in subsection ~~((+5))~~ (6) of this
7 section to the Washington State University extension energy program
8 at the time it submits the applications allowed under RCW
9 82.16.165(1) and section 7 of this act.

10 ~~((+7))~~ (8) The administrator of a community solar project must
11 provide each project participant with a disclosure form containing
12 all material terms and conditions of participation in the project,
13 including but not limited to the following:

14 (a) Plain language disclosure of the terms under which the
15 project participant's share of any incentive payment will be
16 calculated by the Washington State University extension energy
17 program ~~((over the life of the contract))~~;

18 (b) Contract provisions regulating the disposition or transfer of
19 the project participant's interest in the project, including any
20 potential costs associated with such a transfer;

21 (c) All recurring and nonrecurring charges;

22 (d) A description of the billing and payment procedures;

23 (e) A description of any compensation to be paid in the event of
24 project underperformance;

25 (f) Current production projections and a description of the
26 methodology used to develop the projections;

27 (g) Contact information for questions and complaints; and

28 (h) Any other terms and conditions of the services provided by
29 the administrator.

30 ~~((+8))~~ (9) A utility may not adopt rates, terms, conditions, or
31 standards that unduly or unreasonably discriminate between utility-
32 administered community solar projects and those administered by
33 another entity.

34 ~~((+9))~~ (10) A public utility district that is engaged in
35 distributing electricity to more than one retail electric customer in
36 the state and a joint operating agency organized under chapter 43.52
37 RCW on or before January 1, 2017, may enter into an agreement with
38 each other to construct and own a community solar project that is
39 located on property owned by a joint operating agency or on property
40 that receives electric service from a participating public utility

1 district. Each participant of a community solar project under this
2 subsection must be a customer of at least one of the public utility
3 districts that is a party to the agreement with a joint operating
4 agency to construct and own a community solar project.

5 ~~((10))~~ (11) The Washington utilities and transportation
6 commission must publish, without disclosing proprietary information,
7 a list of the following:

8 (a) Entities other than utilities, including affiliates or
9 subsidiaries of utilities, that organize and administer community
10 solar projects; and

11 (b) Community solar projects and related programs and services
12 offered by investor-owned utilities.

13 ~~((11))~~ (12) If a consumer-owned utility opts to provide a
14 community solar program or contracts with a nonutility administrator
15 to offer a community solar program, the governing body of the
16 consumer-owned utility must publish, without disclosing proprietary
17 information, a list of the nonutility administrators contracted by
18 the utility as part of its community solar program.

19 ~~((12))~~ (13) A utility administrator of a community solar
20 project applying for and receiving precertification and certification
21 on or after July 1, 2020, that meets the requirements of section 7 of
22 this act and subsection (3) of this section may provide energy
23 assistance and investments to reduce the energy burden for low-income
24 households and low-income service providers by offsetting the
25 proportional administration and subscription costs for those
26 entities.

27 (14) Except for parties engaged in actions and transactions
28 regulated under laws administered by other authorities and exempted
29 under RCW 19.86.170, a violation of this section constitutes an
30 unfair or deceptive act in trade or commerce in violation of chapter
31 19.86 RCW, the consumer protection act. Acts in violation of chapter
32 36, Laws of 2017 3rd sp. sess. are not reasonable in relation to the
33 development and preservation of business, and constitute matters
34 vitally affecting the public interest for the purpose of applying the
35 consumer protection act, chapter 19.86 RCW.

36 ~~((13))~~ (15) Nothing in this section may be construed as
37 intending to preclude persons from investing in or possessing an
38 ownership interest in a community solar project, or from applying for
39 and receiving federal investment tax credits.

40 (16) This section expires June 30, 2036.

1 **Sec. 9.** RCW 82.16.110 and 2011 c 179 s 2 are each amended to
2 read as follows:

3 (1) The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 ~~((1))~~ (a) "Administrator" means an owner and assignee of a
6 community solar project as defined in ~~((subsection—(2)(a)(i)))~~
7 (b)(i)(A) of this ~~((section))~~ subsection that is responsible for
8 applying for the investment cost recovery incentive on behalf of the
9 other owners and performing such administrative tasks on behalf of
10 the other owners as may be necessary, such as receiving investment
11 cost recovery incentive payments, and allocating and paying
12 appropriate amounts of such payments to the other owners.

13 ~~((2)(a))~~ (b)(i) "Community solar project" means:

14 ~~((i))~~ (A) A solar energy system that is capable of generating
15 up to seventy-five kilowatts of electricity and is owned by local
16 individuals, households, nonprofit organizations, or nonutility
17 businesses that is placed on the property owned by a cooperating
18 local governmental entity that is not in the light and power business
19 or in the gas distribution business;

20 ~~((ii))~~ (B) A utility-owned solar energy system that is capable
21 of generating up to seventy-five kilowatts of electricity and that is
22 voluntarily funded by the utility's ratepayers where, in exchange for
23 their financial support, the utility gives contributors a payment or
24 credit on their utility bill for the value of the electricity
25 produced by the project; or

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

33 ~~((b))~~ (ii) For the purposes of "community solar project" as
34 defined in ~~((a))~~ (b)(i) of this subsection:

35 ~~((i))~~ (A) "Company" means an entity that is:

36 ~~((A))~~ (I) A limited liability company; ~~((II—A))~~ a cooperative
37 formed under chapter 23.86 RCW; or ~~((III—A))~~ a mutual corporation
38 or association formed under chapter 24.06 RCW; and

39 ~~((B))~~ (II) Not a "utility" as defined in this subsection
40 ~~((2)(b))~~ (1)(b)(ii); and

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

4 ~~((+iii))~~ (C) "Utility" means a light and power business, an
5 electric cooperative, or a mutual corporation that provides
6 electricity service.

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

18 ~~((+4))~~ (d) "Economic development kilowatt-hour" means the actual
19 kilowatt-hour measurement of customer-generated electricity
20 multiplied by the appropriate economic development factor.

21 ~~((+5))~~ (e) "Local governmental entity" means any unit of local
22 government of this state including, but not limited to, counties,
23 cities, towns, municipal corporations, quasi-municipal corporations,
24 special purpose districts, and school districts.

25 ~~((+6))~~ (f) "Photovoltaic cell" means a device that converts
26 light directly into electricity without moving parts.

27 ~~((+7))~~ (g) "Renewable energy system" means a solar energy
28 system, an anaerobic digester as defined in RCW 82.08.900, or a wind
29 generator used for producing electricity.

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

33 ~~((+9))~~ (i) "Solar inverter" means the device used to convert
34 direct current to alternating current in a solar energy system.

35 ~~((+10))~~ (j) "Solar module" means the smallest nondivisible self-
36 contained physical structure housing interconnected photovoltaic
37 cells and providing a single direct current electrical output.

38 ~~((+11))~~ (k) "Stirling converter" means a device that produces
39 electricity by converting heat from a solar source utilizing a
40 stirling engine.

1 (2) This section expires June 30, 2031.

2 **Sec. 10.** RCW 82.16.120 and 2017 3rd sp.s. c 36 s 3 are each
3 amended to read as follows:

4 (1)(a) Any individual, business, local governmental entity, not
5 in the light and power business or in the gas distribution business,
6 or a participant in a community solar project may apply to the light
7 and power business serving the situs of the system, each fiscal year
8 beginning on July 1, 2005, and ending June 30, 2017, for an
9 investment cost recovery incentive for each kilowatt-hour from a
10 customer-generated electricity renewable energy system.

11 (b) In the case of a community solar project as defined in RCW
12 82.16.110(~~((2)(a)(i))~~) (1)(b)(i)(A), the administrator must apply for
13 the investment cost recovery incentive on behalf of each of the other
14 owners.

15 (c) In the case of a community solar project as defined in RCW
16 82.16.110(~~((2)(a)(iii))~~) (1)(b)(i)(C), the company owning the
17 community solar project must apply for the investment cost recovery
18 incentive on behalf of each member of the company.

19 (2)(a) Before submitting for the first time the application for
20 the incentive allowed under subsection (4) of this section, the
21 applicant must submit to the department of revenue and to the climate
22 and rural energy development center at the Washington State
23 University, established under RCW 28B.30.642, a certification in a
24 form and manner prescribed by the department that includes, but is
25 not limited to, the information described in (c) of this subsection.

26 (b) The department may not accept certifications submitted to the
27 department under (a) of this subsection after September 30, 2017.

28 (c) The certification must include:

29 (i) The name and address of the applicant and location of the
30 renewable energy system.

31 (A) If the applicant is an administrator of a community solar
32 project as defined in RCW 82.16.110(~~((2)(a)(i))~~) (1)(b)(i)(A), the
33 certification must also include the name and address of each of the
34 owners of the community solar project.

35 (B) If the applicant is a company that owns a community solar
36 project as defined in RCW 82.16.110(~~((2)(a)(iii))~~) (1)(b)(i)(C), the
37 certification must also include the name and address of each member
38 of the company;

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

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

4 (A) Any solar inverters and solar modules manufactured in
5 Washington state;

6 (B) A wind generator powered by blades manufactured in Washington
7 state;

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

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

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

11 (F) Solar or wind equipment manufactured outside of Washington
12 state;

13 (iv) That the electricity can be transformed or transmitted for
14 entry into or operation in parallel with electricity transmission and
15 distribution systems; and

16 (v) The date that the renewable energy system received its final
17 electrical inspection from the applicable local jurisdiction.

18 (d) Within thirty days of receipt of the certification the
19 department of revenue must notify the applicant by mail, or
20 electronically as provided in RCW 82.32.135, whether the renewable
21 energy system qualifies for an incentive under this section. The
22 department may consult with the climate and rural energy development
23 center to determine eligibility for the incentive. System
24 certifications and the information contained therein are not
25 confidential tax information under RCW 82.32.330 and are subject to
26 disclosure.

27 (3)(a) By August 1st of each year through August 1, 2017, the
28 application for the incentive must be made to the light and power
29 business serving the situs of the system by certification in a form
30 and manner prescribed by the department that includes, but is not
31 limited to, the following information:

32 (i) The name and address of the applicant and location of the
33 renewable energy system.

34 (A) If the applicant is an administrator of a community solar
35 project as defined in RCW 82.16.110(~~((2)(a)(i))~~) (1)(b)(i)(A), the
36 application must also include the name and address of each of the
37 owners of the community solar project.

38 (B) If the applicant is a company that owns a community solar
39 project as defined in RCW 82.16.110(~~((2)(a)(iii))~~) (1)(b)(i)(C), the

1 application must also include the name and address of each member of
2 the company;

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

4 (iii) The date of the notification from the department of revenue
5 stating that the renewable energy system is eligible for the
6 incentives under this section; and

7 (iv) A statement of the amount of kilowatt-hours generated by the
8 renewable energy system in the prior fiscal year.

9 (b) Within sixty days of receipt of the incentive certification
10 the light and power business serving the situs of the system must
11 notify the applicant in writing whether the incentive payment will be
12 authorized or denied. The business may consult with the climate and
13 rural energy development center to determine eligibility for the
14 incentive payment. Incentive certifications and the information
15 contained therein are not confidential tax information under RCW
16 82.32.330 and are subject to disclosure.

17 (c) (i) Persons, administrators of community solar projects, and
18 companies receiving incentive payments must keep and preserve, for a
19 period of five years, suitable records as may be necessary to
20 determine the amount of incentive applied for and received. Such
21 records must be open for examination at any time upon notice by the
22 light and power business that made the payment or by the department.
23 If upon examination of any records or from other information obtained
24 by the business or department it appears that an incentive has been
25 paid in an amount that exceeds the correct amount of incentive
26 payable, the business may assess against the person for the amount
27 found to have been paid in excess of the correct amount of incentive
28 payable and must add thereto interest on the amount. Interest is
29 assessed in the manner that the department assesses interest upon
30 delinquent tax under RCW 82.32.050.

31 (ii) If it appears that the amount of incentive paid is less than
32 the correct amount of incentive payable the business may authorize
33 additional payment.

34 (4) Except for community solar projects, the investment cost
35 recovery incentive may be paid fifteen cents per economic development
36 kilowatt-hour unless requests exceed the amount authorized for credit
37 to the participating light and power business. For community solar
38 projects, the investment cost recovery incentive may be paid thirty
39 cents per economic development kilowatt-hour unless requests exceed
40 the amount authorized for credit to the participating light and power

1 business. For the purposes of this section, the rate paid for the
2 investment cost recovery incentive may be multiplied by the following
3 factors:

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

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

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

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

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

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

22 (c) Where the applicant is an administrator of a community solar
23 project as defined in RCW 82.16.110(~~((2)(a)(i))~~) (1)(b)(i)(A), each
24 owner is eligible for an incentive but only in proportion to the
25 ownership share of the project, up to five thousand dollars per year.

26 (d) Where the applicant is a company owning a community solar
27 project that has applied for an investment cost recovery incentive on
28 behalf of its members, each member of the company is eligible for an
29 incentive that would otherwise belong to the company but only in
30 proportion to each ownership share of the company, up to five
31 thousand dollars per year. The company itself is not eligible for
32 incentives under this section.

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

37 (6) The climate and rural energy development center at Washington
38 State University energy program may establish guidelines and
39 standards for technologies that are identified as Washington

1 manufactured and therefore most beneficial to the state's
2 environment.

3 (7) The environmental attributes of the renewable energy system
4 belong to the applicant, and do not transfer to the state or the
5 light and power business upon receipt of the investment cost recovery
6 incentive.

7 (8) No incentive may be paid under this section for kilowatt-
8 hours generated before July 1, 2005, or after June 30, 2017, except
9 as provided in subsections (10) through (12) of this section.

10 (9) Beginning October 1, 2017, program management, technical
11 review, and tracking responsibilities of the department under this
12 section are transferred to the Washington State University extension
13 energy program. At the earliest date practicable and no later than
14 September 30, 2017, the department must transfer all records
15 necessary for the administration of the remaining incentive payments
16 due under this section to the Washington State University extension
17 energy program.

18 (10) Participants in the renewable energy investment cost
19 recovery program under this section will continue to receive payments
20 for electricity produced through June 30, 2020, at the same rates
21 their utility paid to participants for electricity produced between
22 July 1, 2015, and June 30, 2016.

23 (11) In order to continue to receive the incentive payment
24 allowed under subsection (4) of this section, a person or community
25 solar project administrator who has, by September 30, 2017, submitted
26 a complete certification to the department under subsection (2) of
27 this section must apply to the Washington State University extension
28 energy program by April 30, 2018, for a certification authorizing the
29 utility serving the situs of the renewable energy system to annually
30 remit the incentive payment allowed under subsection (4) of this
31 section for each kilowatt-hour generated by the renewable energy
32 system through June 30, 2020.

33 (12)(a) The Washington State University extension energy program
34 must establish an application process and form by which to collect
35 the system operation data described in RCW 82.16.165(7)(a)(iii) from
36 each person or community solar project administrator applying for a
37 certification under subsection (11) of this section. The Washington
38 State University extension energy program must notify any applicant
39 that providing this data is a condition of certification and that any

1 certification issued pursuant to this section is void as of June 30,
2 2018, if the applicant has failed to provide the data by that date.

3 (b) Beginning July 1, 2018, the Washington State University
4 extension energy program must, in a form and manner that is
5 consistent with the roles and processes established under RCW
6 82.16.165 (19) and (20), calculate for the year and provide to the
7 utility the amount of the incentive payment due to each participant
8 under subsection (11) of this section.

9 (13) This section expires June 30, 2031.

10 **Sec. 11.** RCW 82.16.150 and 2010 c 202 s 5 are each amended to
11 read as follows:

12 (1) Owners of a community solar project as defined in RCW
13 82.16.110 (~~((2) (a) (i) and (iii))~~) (1) (b) (i) (A) and (C) must agree to
14 hold harmless the light and power business serving the situs of the
15 system, including any employee, for the good faith reliance on the
16 information contained in an application or certification submitted by
17 an administrator or company. In addition, the light and power
18 business and any employee is immune from civil liability for the good
19 faith reliance on any misstatement that may be made in such
20 application or certification. Should a light and power business or
21 employee prevail upon the defense provided in this section, it is
22 entitled to recover expenses and reasonable attorneys' fees incurred
23 in establishing the defense.

24 (2) This section expires June 30, 2031.

25 **Sec. 12.** RCW 82.16.155 and 2017 3rd sp.s. c 36 s 2 are each
26 amended to read as follows:

27 (1) This section is the tax preference performance statement for
28 the tax preference and incentives created under (~~(RCW 82.16.130 and)~~)
29 sections 4 and 6, chapter 36, Laws of 2017 3rd sp. sess. This
30 performance statement is only intended to be used for subsequent
31 evaluation of the tax preference and incentives. It is not intended
32 to create a private right of action by any party or be used to
33 determine eligibility for preferential tax treatment.

34 (2) The legislature categorizes the tax preference created under
35 (~~(RCW 82.16.130)~~) section 4, chapter 36, Laws of 2017 3rd sp. sess.
36 and incentive payments authorized in section 6, chapter 36, Laws of
37 2017 3rd sp. sess. as intended to:

1 (a) Induce participating utilities to make incentive payments to
2 utility customers who invest in renewable energy systems; and
3 (b) By inducing utilities, nonprofit organizations, and utility
4 customers to acquire and install renewable energy systems, retain
5 jobs in the clean energy sector and create additional jobs.
6 (3) The legislature's public policy objectives are to:
7 (a) Increase energy independence from fossil fuels; and
8 (b) Promote economic development through increasing and improving
9 investment in, development of, and use of clean energy technology in
10 Washington; and
11 (c) Increase the number of jobs in and enhance the sustainability
12 of the clean energy technology industry in Washington.
13 (4) It is the legislature's intent to provide the incentives in
14 sections 4 and 6, chapter 36, Laws of 2017 3rd sp. sess. (~~and RCW~~
15 ~~82.16.130~~) in order to ensure the sustainable job growth and
16 vitality of the state's renewable energy sector. The purpose of the
17 incentive is to reduce the costs associated with installing and
18 operating solar energy systems by persons or entities receiving the
19 incentive.
20 (5) As part of its 2021 tax preference reviews, the joint
21 legislative audit and review committee must review the tax
22 preferences and incentives in sections 4 and 6, chapter 36, Laws of
23 2017 3rd sp. sess. (~~and RCW 82.16.130.~~) The legislature intends for
24 the legislative auditor to determine that the incentive has achieved
25 its desired outcomes if the following objectives are achieved:
26 (a) Installation of one hundred fifteen megawatts of solar
27 photovoltaic capacity by participants in the incentive program
28 between July 1, 2017, and June 30, 2021; and
29 (b) Growth of solar-related employment from 2015 levels, as
30 evidenced by:
31 (i) An increased per capita rate of solar energy-related jobs in
32 Washington, which may be determined by consulting a relevant trade
33 association in the state; or
34 (ii) Achievement of an improved national ranking for solar
35 energy-related employment and per capita solar energy-related
36 employment, as reported in a nationally recognized report.
37 (6) In order to obtain the data necessary to perform the review,
38 the joint legislative audit and review committee may refer to data
39 collected by the Washington State University extension energy program

1 and may obtain employment data from the employment security
2 department.

3 (7) The Washington State University extension energy program must
4 collect, through the application process, data from persons claiming
5 the tax credit under ((RCW 82.16.130)) section 4, chapter 36, Laws of
6 2017 3rd sp. sess. and persons receiving the incentive payments
7 created in ((RCW 82.16.165)) section 6, chapter 36, Laws of 2017 3rd
8 sp. sess., as necessary, and may collect data from other interested
9 persons as necessary to report on the performance of chapter 36, Laws
10 of 2017 3rd sp. sess.

11 (8) All recipients of tax credits or incentive payments awarded
12 under this chapter must provide data necessary to evaluate the tax
13 preference performance objectives in this section as requested by the
14 Washington State University extension energy program or the joint
15 legislative audit and review committee. Failure to comply may result
16 in the loss of a tax credit award or incentive payment in the
17 following year.

18 (9) This section expires June 30, 2031.

19 NEW SECTION. Sec. 13. The provisions of RCW 82.32.805 and
20 82.32.808 do not apply to this act.

21 NEW SECTION. Sec. 14. This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of
23 the state government and its existing public institutions, and takes
24 effect immediately.

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