# SENATE BILL REPORT
# SB 5714

As of January 11, 2022

**Title:** An act relating to creating a sales and use tax deferral program for solar canopies placed on large-scale commercial parking lots and other similar areas.

**Brief Description:** Creating a sales and use tax deferral program for solar canopies placed on large-scale commercial parking lots and other similar areas.

**Sponsors:** Senators Carlyle and Liias.

**Brief History:**
**Committee Activity:** Environment, Energy & Technology: 1/13/22.


**Brief Summary of Bill**

- Defers state and local sales and uses taxes on a qualified solar canopy, including labor and services rendered in the planning, installation, and construction of the project, that is located in a qualifying commercial center.
- Requires that a qualified solar canopy be at least 50,000 square feet and be capable of producing at least one megawatt of electricity.
- Exempts the deferred sales and use taxes if the property continues to be used as a solar canopy for at least eight years.
- Directs the Department of Revenue to stop accepting new applications for the deferral after June 30, 2032.


## SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Staff:** Kimberly Cushing (786-7421)

**Background:** Retail Sales and Use Taxes. Retail sales taxes are imposed on retail sales of

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most articles of tangible personal property, digital products, and some services. The use tax is imposed on items used in the state that were not subject to the retail sales tax. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

Greenhouse Gas Emissions. In 2020, the Legislature updated statewide greenhouse gas (GHG) emissions reduction limits to 45 percent below 1990 levels by 2030, 70 percent below 1990 levels by 2040, and 95 percent below 1990 levels, as well as net zero emissions, by 2050.

The Department of Ecology (Ecology) and the Department of Commerce must report the total GHG emissions, by source sector, in Washington State. According to the most recent data from Ecology, as of 2018 the total annual GHG emissions in Washington State were 99.6 million metric tons (MMT) of carbon dioxide equivalent. Of these emissions, 16.21 MMT, or 16.3 percent, were attributable to electricity sources.

Solar Energy Systems. Under current law, a solar energy system means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity. According to the Washington State University (WSU) Energy Extension Program, of the 7542 systems certified under the Renewable Energy System Incentive Program, 7146 were residential-scale solar systems.

**Summary of Bill:** The Legislature intends to incentivize the construction of solar canopies on large-scale commercial parking lots in order to contribute to the state's goals for reducing GHG emissions from the electricity sector and boost overall electricity supplies as the state increases the electrification of transportation and buildings.

The Department of Revenue (DOR) must issue a sales and use tax deferral certificate for state and local sales and uses taxes on an eligible investment project.

An eligible investment project (project) is an investment in a qualified solar canopy, including labor and services rendered in the planning, installation, and construction of the project, that is located in a qualifying commercial center. A qualified solar canopy is a new elevated structure, or multiple structures, containing a solar energy system that provides at least one megawatt (MW) of electricity and has an area of at least 50,000 square feet. A qualifying commercial center is a property currently used for retail, industrial, or other commercial purposes, containing a parking area or other area dedicated for the placement of a solar canopy.

An application for deferral of taxes must be made to DOR before initiation of the construction of the project. The application must be made in a form and manner prescribed by DOR, and contain information regarding the location of the project, estimated or actual costs, time schedules for completion and operation, and anticipated nameplate capacity and use of the electricity produced by the solar canopy. DOR must rule on the application within 60 days. DOR may not accept applications for a tax deferral after June 30, 2032.

The recipient of a deferral certificate must begin meaningful construction on a project within one year of receiving the certificate, unless construction was delayed due to circumstances beyond the recipient's control. Lack of funding is not considered such a circumstance. If the recipient does not begin meaningful construction within one year, the certificate is invalid and the deferred taxes are due immediately. At the time of completion, if the solar canopy will produce an amount of electricity that is less than 85 percent of the nameplate capacity originally assumed in the application, the recipient must update DOR.

The deferred sales and uses taxes are fully exempt if the property continues to be used for a solar canopy for at least eight years. However, if the project is not operationally complete within two years of being issued the tax deferral certificate, or DOR finds that a project is used for purposes other than a qualified solar canopy during the year the project was certified as being operational for any of the seven succeeding calendar years, a portion of deferred taxes is due according to a declining schedule. DOR must assess interest at the rate provided for delinquent taxes retroactively to the date of deferral. Debt for deferred taxes is not extinguished by insolvency or other failure of the recipient. If ownership is transferred, the deferral is also transferred subject to the successor meeting the eligibility requirements for the remaining period of the deferral.

The Joint Legislative Audit and Review Committee (JLARC) must review the sales and use tax deferral by December 31, 2030. The review must specifically evaluate:

- the number of solar canopies constructed in the state subject to the tax deferral;
- the average and total electric output of solar canopies subject to the tax deferral;
- the total beneficiary savings from the tax preference;
- the estimated reduction in GHG emissions resulting from energy produced from solar canopies, assuming an equivalent amount of energy would have otherwise been generated through the combustion of fossil fuels; and
- any other metrics JLARC finds relevant to the evaluation of the tax preference in meetings its public policy objectives.

JLARC must use the information from the application compiled by DOR and may contact recipients of the tax deferral to confirm details of their solar canopies.

**Appropriation:** None.

**Fiscal Note:** Requested on January 8, 2022.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on July 1, 2022.