
HOUSE BILL 2388

State of Washington

68th Legislature

2024 Regular Session

By Representatives Hackney, Reed, and Pollet; by request of Department of Commerce

Read first time 01/16/24. Referred to Committee on Capital Budget.

1 AN ACT Relating to promoting equitable economic and technological
2 advancement through the clean energy fund; and adding a new chapter
3 to Title 43 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 (1) Since 2013, the legislature has supported the research,
7 development, and demonstration of innovative clean energy
8 technologies through the clean energy fund program.

9 (2) The clean energy fund program provides a benefit to the
10 public consistent with the state energy strategy and clean energy and
11 climate mandates established in chapters 19.405 and 70A.65 RCW.

12 (3) State funding allocated to the clean energy fund program has
13 catalyzed public-private partnerships and has accelerated innovation
14 in clean energy technologies. However, market transformation is still
15 in its early stages and requires continued state investment to
16 equitably and affordably meet the state's clean energy goals that
17 require fundamental shifts in Washington's energy landscape and
18 infrastructure needs.

19 (4) The clean energy fund program aligns with federal programs
20 and can provide matching funds to help leverage greater investment in
21 clean energy projects in Washington.

1 (5) The state must provide resources and technical assistance to
2 enable communities in Washington to benefit from state and federal
3 funding for clean energy projects, shape their own energy future, and
4 realize the benefits of clean energy projects, such as community
5 resilience, environmental justice, and high road jobs.

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

9 (1) "Department" means the department of commerce.

10 (2) "Director" means the director of the department of commerce
11 or their designee.

12 (3) "Overburdened communities" has the same meaning as
13 "overburdened community" as defined in RCW 70A.02.010.

14 (4) "Program" means the clean energy fund program created in
15 section 3 of this act.

16 (5) "Vulnerable populations" has the same meaning as defined in
17 RCW 70A.02.010.

18 NEW SECTION. **Sec. 3.** (1) There is created within the department
19 the clean energy fund program to carry out the purposes of this
20 chapter.

21 (2) The program is intended to fund projects that provide a
22 benefit to the public through research, development, and
23 demonstration of innovative clean energy technologies that save
24 energy and reduce energy costs, reduce harmful air emissions, or
25 increase energy independence for the state.

26 (3) Projects eligible for assistance from the program must:

27 (a) Support clean energy technologies and infrastructure and be
28 consistent with the state energy strategy adopted under chapter
29 43.21F RCW, with clean energy and climate mandates established in
30 chapters 19.405 and 70A.65 RCW, and with environmental justice goals
31 established in RCW 70A.02.060; and

32 (b) Address decarbonization of the use of energy in all sectors
33 of the economy, which can include, but is not limited to, research,
34 development, and demonstration to support new clean energy
35 technologies, first of a kind projects to demonstrate how clean
36 energy technologies can be integrated into the unique Washington
37 energy ecosystem, and introduction of emerging clean energy
38 technologies into new communities.

1 (4) The department must develop funding opportunities in
2 partnership with communities throughout the state. Funding may be
3 utilized to address community identified clean energy challenges and
4 accelerate market transformation of new technology solutions.

5 (5) In addition to grants for installation and construction, the
6 department may use moneys provided for the program to provide
7 technical assistance to eligible applicants planning for a clean
8 energy project that is eligible for program funding. This assistance
9 may include predesign, design, and engineering work that is
10 anticipated to lead to a capital asset. The department may contract
11 with outside consultants, nonprofit organizations, and other
12 qualified entities to provide this technical assistance. As part of
13 providing technical assistance, the department or a contracted
14 organization or organizations may provide any of the following
15 services:

16 (a) Project design, architectural planning, and engineering;

17 (b) Compliance with planning requirements;

18 (c) Construction and materials management; and

19 (d) Project maintenance and management.

20 (6) The department may use funds appropriated to the program as
21 match to secure federal investments that align with the state energy
22 strategy adopted under chapter 43.21F RCW and accelerate achievement
23 of clean energy and climate mandates established in chapters 19.405
24 and 70A.65 RCW.

25 NEW SECTION. **Sec. 4.** The department may designate an eligible
26 applicant list for each category of allowable projects funded through
27 the program as described in section 3 of this act. Eligible
28 applicants may include, but are not limited to:

29 (1) Nonprofit organizations;

30 (2) Local governments;

31 (3) Federally recognized tribal governments and tribal entities;

32 (4) Public and private utilities that serve retail customers in
33 the state;

34 (5) State agencies;

35 (6) Housing authorities;

36 (7) Ports;

37 (8) Transit agencies;

38 (9) Research organizations; and

39 (10) For-profit entities.

1 NEW SECTION.

2 **Sec. 5.**

3 (1) In soliciting and evaluating
4 proposals, awarding contracts, and monitoring projects under this
5 section, the department must:

6 (a) Evaluate all qualified applications and select projects based
7 on merit; and

8 (b) Ensure that a public benefit results from the use of public
9 funds through due diligence and monitoring of contracted projects,
10 including ensuring compliance with all applicable laws related to the
11 project selection process, project monitoring, and contracting.

12 (2) During each calendar year in which funds are made available
13 for use by the department for the program, the department must
14 announce to all parties requesting such a notice, and through media
15 throughout the state, a grant application period of a specified
16 duration. The department must then grant as many qualified
17 applications as will utilize available funds, less appropriate
18 administrative costs of the department as provided in this chapter.

19 (3) The department must give priority to applications from
20 projects that benefit vulnerable populations and overburdened
21 communities, including tribes and communities with either high
22 environmental or energy burdens or resiliency needs, or both, and
23 projects that encourage workforce development.

24 (4) The department may give preference for applications based on
25 any of the following criteria:

26 (a) Applications that demonstrate partnership between eligible
27 applicants in applying for funding, including utilities, public and
28 private sector research organizations, businesses, tribes, local
29 governments, and nonprofit organizations;

30 (b) The degree of commitment from projects to provide community
31 education and engagement and necessary maintenance activities after
32 project completion;

33 (c) Applications that propose to build projects on existing
34 impervious surfaces, landfills, brownfields, previously developed
35 sites, irrigation canals and ponds, stormwater collection ponds,
36 industrial areas, former mines, and other sites that do not displace
37 critical habitat or productive farmland as defined by state and
38 county planning processes;

39 (d) Projects that address community-identified clean energy
40 needs, such as those of rural communities;

1 (e) Projects that demonstrate a strong probability of leading to
2 replicable solutions that can be adopted in other areas of the state;
3 and

4 (f) Projects that reduce total greenhouse gas emissions,
5 accelerate the path to zero energy, or demonstrate early adoption of
6 grid integration technology.

7 (5) Applicants for grants must disclose all sources of public
8 funds invested in a project.

9 (6) Pursuant to chapter 42.52 RCW, the ethics in public service
10 act, the department must require a project applicant to identify in
11 application materials any state of Washington employees or former
12 state employees employed by the firm or on the firm's governing board
13 during the past 24 months. Application materials must identify the
14 individual by name, the agency previously or currently employing the
15 individual, job title or position held, and separation date. If it is
16 determined by the department that a conflict of interest exists, the
17 applicant may be disqualified from further consideration for award of
18 funding. If the department finds, after due notice and examination,
19 that there is a violation of chapter 42.52 RCW, or any similar
20 statute involving a grantee who received funding under this section,
21 either in procuring or performing under the grant, the department in
22 its sole discretion may terminate the funding grant by written
23 notice. If the grant is terminated, the department must reserve its
24 right to pursue all available remedies under law to address the
25 violation.

26 (7) The department must include the requirements in subsections
27 (5) and (6) of this section in each grant funding agreement.

28 NEW SECTION. **Sec. 6.** The department shall regularly publish
29 information on its website on program projects that have resulted in
30 the construction or installation of new capital assets to make
31 lessons learned and best practices developed during the grant award
32 period publicly accessible. At the end of each biennium, the
33 department shall hold a public meeting on recently completed program
34 projects to discuss and publicize knowledge gained through research,
35 development, and demonstration activities and to increase awareness
36 of proof-of-concept type projects in Washington to enhance
37 replicability.

1 NEW SECTION. **Sec. 7.** The director shall monitor the activities
2 of recipients of grants under this chapter to determine compliance
3 with the terms and conditions set forth in the grant funding
4 agreement.

5 NEW SECTION. **Sec. 8.** The department has the authority to adopt
6 rules under chapter 34.05 RCW to implement this chapter.

7 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act
8 constitute a new chapter in Title 43 RCW.

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