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HOUSE BILL 1804

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State of Washington

69th Legislature

2025 Regular Session

By Representatives Fey, Klicker, Duerr, Ybarra, Stuebe, Richards, Doglio, Pollet, and Zahn

Read first time 02/03/25. Referred to Committee on Environment & Energy.

1 AN ACT Relating to improving accessibility of community solar  
2 projects in Washington state; and amending RCW 80.28.370, 82.16.170,  
3 82.16.182, 82.16.183, and 82.16.184.

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

5 **Sec. 1.** RCW 80.28.370 and 2017 3rd sp.s. c 36 s 10 are each  
6 amended to read as follows:

7 The definitions in this section apply throughout this section and  
8 RCW 80.28.375 unless the context clearly requires otherwise.

9 (1) "Community solar company" means a person, firm, ~~((or))~~  
10 organization, corporation, ((other than an electric utility or a  
11 community solar cooperative, that owns a community solar project and  
12 provides community solar project services to project participants))  
13 community solar cooperative, or any other entity that owns a  
14 community solar project or provides community solar project services  
15 to project participants or subscribers, except that a community solar  
16 company does not include an electric utility, tribal government, or  
17 the sole participating low-income service provider of a community  
18 solar project administering a community solar project and receiving  
19 an incentive as described in RCW 82.16.183.

20 (2) "Community solar project" means a solar energy system that  
21 has ~~((a direct current nameplate generating capacity that is no~~

1 ~~larger than one thousand kilowatts)), at a minimum, either two~~  
2 ~~subscribers or one low-income service provider subscriber, receiving~~  
3 ~~the benefits from the energy output of the system.~~

4 (3) ~~"Community solar project services" ((means the provision of~~  
5 ~~electricity generated by a community solar project, or the provision~~  
6 ~~of the financial benefits associated with electricity generated by a~~  
7 ~~community solar project, to multiple project participants, and may~~  
8 ~~include other services associated with the use of the community solar~~  
9 ~~project such as system monitoring and maintenance, warranty~~  
10 ~~provisions, performance guarantees, and customer service)) includes,~~  
11 ~~but is not limited to, the following activities:~~

12 (a) Marketing community solar project subscriptions;

13 (b) Collecting funds that are intended to pay for a portion of a  
14 community solar project or to purchase, subscribe to, or compensate  
15 for benefits from a project's output;

16 (c) Enrolling subscribers or project participants in a community  
17 solar project;

18 (d) Administering the energy or financial benefits from a  
19 community solar project to its subscribers or participants; and

20 (e) Soliciting or entering into contracts for interconnection of  
21 a community solar project for the purpose of transferring the energy  
22 benefits described in RCW 82.16.183 to project subscribers.

23 (4) "Electric utility" means a consumer-owned utility or  
24 investor-owned utility as those terms are defined in RCW 19.280.020.

25 (5) "Project participant" means a customer who subscribes to,  
26 enters into a lease, power purchase agreement, loan, or other  
27 ~~((financial))~~ agreement with a community solar company or other  
28 community solar project administrator in order to obtain a beneficial  
29 interest in, other than direct ownership of, a community solar  
30 project.

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

34 **Sec. 2.** RCW 82.16.170 and 2022 c 212 s 6 are each amended to  
35 read as follows:

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

1 When the administrator is not a utility, tribal government, or sole  
2 participating low-income service provider of the project, the  
3 administrator must be registered with the commission as a community  
4 solar company as required in RCW 80.28.375.

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

18 (3) In order to receive certification for the incentive payment  
19 provided under RCW 82.16.183 beginning July 1, 2022, a community  
20 solar project must meet the following requirements:

21 (a) (i) ~~The administrator of the community solar project ((must be~~  
22 ~~a utility, nonprofit, or tribal housing authority that administers a~~  
23 ~~community solar project on tribal lands or lands held in trust for a~~  
24 ~~federally recognized tribe by the United States for subscribers who~~  
25 ~~are tribal members, or other local housing authority. The~~  
26 ~~administrator of the community solar project))~~ must apply for  
27 precertification under RCW 82.16.183 on or after July 1, 2022;

28 (ii) For the purposes of this section, "administrator" has the  
29 same definition as in RCW 82.16.182;

30 (b) (i) The community solar project must have a direct current  
31 nameplate capacity that is greater than 12 kilowatts but no greater  
32 than ~~((199))~~ 999 kilowatts, and must have at least two subscribers or  
33 one low-income service provider subscriber;

34 (ii) At least 50 percent of available incentive payments provided  
35 by the Washington State University extension energy program must be  
36 reserved for projects 199 kilowatts or smaller;

37 (iii) Prior to an administrator receiving an incentive payment,  
38 any project with a capacity greater than 199 kilowatts and less than  
39 or equal to 999 kilowatts must receive certification from the

1 department of labor and industries that the project construction  
2 includes:

3 (A) Apprenticeship utilization;

4 (B) Compensation of workers at prevailing wage rates determined  
5 by local collective bargaining;

6 (C) A copy of the contractor's certificate of registration in  
7 compliance with chapter 18.27 RCW, including:

8 (I) The contractor's current state unified business identifier  
9 number;

10 (II) A copy of the contractor's proof of industrial insurance  
11 coverage for the contractor's employees working in Washington as  
12 required in Title 51 RCW;

13 (III) Employment security department number as required in Title  
14 50 RCW;

15 (IV) A state excise tax registration number as required in Title  
16 82 RCW; and

17 (V) Documentation of the contractor's history of compliance with  
18 federal or state wage and hour laws and regulations in a final and  
19 binding order by an administrative agency or court of competent  
20 jurisdiction in the past 24 months;

21 (D) In the event that a business activity under this section is  
22 without one or more of these standards, and a person demonstrates a  
23 good faith effort to comply, the department of labor and industries  
24 may certify that the person complied with the requirements under this  
25 section; and

26 (E) Nothing in this section supersedes RCW 19.28.091 or 19.28.261  
27 or chapter 49.17 RCW, without regard to project cost;

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

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

37 (e) Except for community solar projects authorized under  
38 subsection (10) of this section, each subscriber must be a customer  
39 of the utility providing service at the site of the community solar  
40 project;

1 (f) In the event that a low-income subscriber in a community  
2 solar project certified under RCW 82.16.183 moves within 120 months  
3 of system certification from the household premises of the  
4 subscriber's current subscription to another, ~~((the))~~ either:

5 (i) The subscriber may continue the subscription, provided that  
6 the new household premises is served by the utility providing service  
7 at the site of the community solar project ~~((In the event that a  
8 subscriber is no longer served by that utility or the subscriber  
9 terminates participation in a community solar project certified under  
10 RCW 82.16.183, the))~~; or

11 (ii) The certification follows the system and participation must  
12 be transferred by the administrator to a new qualifying subscriber as  
13 specified in RCW 82.16.183 and keeping within the terms of the  
14 interconnection agreement between the utility and the interconnected  
15 customer;

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 (5) The administrator of a community solar project may establish  
29 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 (6) The administrator of a community solar project must maintain  
35 and update annually through June 30, 2030, the following information  
36 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 (7) The administrator of a community solar project must provide  
6 the information required in subsection (6) of this section to the  
7 Washington State University extension energy program at the time it  
8 submits the applications allowed under RCW 82.16.165(1) and  
9 82.16.183.

10 (8) The administrator of a community solar project must provide  
11 each project participant with a disclosure form containing all  
12 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;

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 (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 (10) A public utility district that is engaged in distributing  
35 electricity to more than one retail electric customer in the state  
36 and a joint operating agency organized under chapter 43.52 RCW on or  
37 before January 1, 2017, may enter into an agreement with each other  
38 to construct and own a community solar project that is located on  
39 property owned by a joint operating agency or on property that  
40 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 (11) The Washington utilities and transportation commission must  
6 publish, without disclosing proprietary information, a list of the  
7 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 (12) If a consumer-owned utility opts to provide a community  
14 solar program or contracts with a nonutility administrator to offer a  
15 community solar program, the governing body of the consumer-owned  
16 utility must publish, without disclosing proprietary information, a  
17 list of the nonutility administrators contracted by the utility as  
18 part of its community solar program.

19 (13) Except for parties engaged in actions and transactions  
20 regulated under laws administered by other authorities and exempted  
21 under RCW 19.86.170, a violation of this section constitutes an  
22 unfair or deceptive act in trade or commerce in violation of chapter  
23 19.86 RCW, the consumer protection act. Acts in violation of chapter  
24 36, Laws of 2017 3rd sp. sess. are not reasonable in relation to the  
25 development and preservation of business, and constitute matters  
26 vitally affecting the public interest for the purpose of applying the  
27 consumer protection act, chapter 19.86 RCW.

28 (14) Nothing in this section may be construed as intending to  
29 preclude persons from investing in or possessing an ownership  
30 interest in a community solar project, or from applying for and  
31 receiving federal investment tax credits.

32 (15) This section expires June 30, 2038.

33 **Sec. 3.** RCW 82.16.182 and 2022 c 212 s 4 are each amended to  
34 read as follows:

35 (1) The definitions in this section apply throughout this section  
36 and RCW 82.16.183 unless the context clearly requires otherwise.

37 (a) (i) "Administrator" means the utility, nonprofit, tribal  
38 government or tribal housing authority as provided in (a) (ii) of this  
39 subsection, or affordable housing provider or other local housing

1 authority that organizes and administers a community solar project as  
2 provided in RCW 82.16.183 and 82.16.170.

3 (ii) A tribal government or tribal housing authority may only  
4 administer a community solar project on tribal lands or lands held in  
5 trust for a federally recognized tribe by the United States for  
6 subscribers who are tribal members.

7 (b) "Certification" means the authorization issued by the  
8 Washington State University extension energy program establishing a  
9 community solar project administrator's eligibility to receive a low-  
10 income community solar incentive payment from the electric utility  
11 serving the site of the community solar project, on behalf of, and  
12 for the purpose of providing direct benefits to, its low-income  
13 subscribers, low-income service provider subscribers, and tribal and  
14 public agency subscribers.

15 (c)(i) "Community solar project" means a solar energy system  
16 that:

17 (A) Has a direct current nameplate capacity that is greater than  
18 12 kilowatts but no greater than ((199)) 999 kilowatts;

19 (B) Has, at minimum, either two subscribers or one low-income  
20 service provider subscriber; and

21 (C) Meets the applicable eligibility requirements in RCW  
22 82.16.183.

23 (ii) A community solar project may include a storage system with  
24 a solar energy system.

25 (d) "Consumer-owned utility" has the same meaning as in RCW  
26 19.280.020.

27 (e) "Electric utility" or "utility" means a consumer-owned  
28 utility or investor-owned utility as those terms are defined in RCW  
29 19.280.020.

30 (f) "Energy assistance" has the same meaning as provided in RCW  
31 19.405.020.

32 (g) "Energy burden" has the same meaning as provided in RCW  
33 19.405.020.

34 (h) "Governing body" has the same meaning as provided in RCW  
35 19.280.020.

36 (i)(i) "Installed cost" includes only the renewable energy system  
37 components and fees that are integral and necessary for the  
38 generation and storage of electricity. Components and fees include:

39 (A) Solar modules and inverters;

40 (B) Battery systems;



1 (C) Balance of system, such as racking, wiring, switch gears, and  
2 meter bases;

3 (D) Nonhardware costs incurred up to the date of the final  
4 electrical inspection, such as fees associated with engineering,  
5 permitting, interconnection, and application;

6 (E) Labor; and

7 (F) Sales tax.

8 (ii) "Installed cost" does not include structures and fixtures  
9 that are not integral and necessary to the generation or storage of  
10 electricity, such as carports and roofing.

11 (j) "Interconnection customer" means the person, corporation,  
12 partnership, government agency, or other entity that proposes to  
13 interconnect, or has executed an interconnection agreement, with the  
14 electric utility.

15 (k) "Low-income" has the same meaning as provided in RCW  
16 19.405.020.

17 (l) "Low-income service provider" includes, but is not limited  
18 to, a local community action agency or local community service agency  
19 designated by the department of commerce under chapter 43.63A RCW,  
20 local housing authority, tribal government or tribal housing  
21 authority, low-income tribal housing program, affordable housing  
22 provider, food bank, or other nonprofit organization that provides  
23 services to low-income households as part of their core mission.

24 (m) "Multifamily residential building" means a building  
25 containing more than two sleeping units or dwelling units where  
26 occupants are primarily permanent in nature.

27 (n) "Person" means an individual, firm, partnership, corporation,  
28 company, association, agency, or any other legal entity.

29 (o) "Preferred sites" means rooftops, structures, existing  
30 impervious surfaces, landfills, brownfields, previously developed  
31 sites, irrigation canals and ponds, stormwater collection ponds,  
32 industrial areas, dual-use solar projects that ensure ongoing  
33 agricultural operations, and other sites that do not displace  
34 critical habitat or productive farmland as defined by state and  
35 county planning processes.

36 (p) "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 (q) (i) Except as otherwise provided in (q) (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 (r) "Retail electric customer" has the same meaning as in RCW  
11 80.60.010.

12 (s) "Subscriber" means a retail electric customer of an electric  
13 utility who owns or is the beneficiary of one or more units of a  
14 community solar project directly interconnected with that same  
15 utility.

16 (t) "Subscription" means an agreement between a subscriber and  
17 the administrator of a community solar project.

18 (u) "Tribal government" means any federally recognized Indian  
19 tribe whose traditional lands and territories include parts of  
20 Washington state.

21 (2) This section expires June 30, 2038.

22 **Sec. 4.** RCW 82.16.183 and 2022 c 212 s 5 are each amended to  
23 read as follows:

24 (1) Beginning July 1, 2022, through June 30, 2033, an  
25 administrator of a community solar project meeting the eligibility  
26 requirements described in this section and RCW 82.16.170(3) may  
27 submit an application to the Washington State University extension  
28 energy program to receive a precertification for a community solar  
29 project. Projects with precertification applications approved by the  
30 Washington State University extension energy program have two years  
31 to complete their projects and apply for certification. Projects that  
32 have not completed certification within two years may apply to the  
33 Washington State University extension energy program for an extension  
34 of their precertification status for an additional 180 days if they  
35 can demonstrate significant progress during the time they were in  
36 precertification status. By certifying qualified projects pursuant to  
37 the requirements of this section and RCW 82.16.170(3), the Washington  
38 State University extension energy program authorizes the utility  
39 serving the site of a community solar project in the state of

1 Washington to remit (~~a one-time~~) low-income community solar  
2 incentive payments to the community solar project administrator, who  
3 accepts the payments on behalf of, and for the purpose of providing  
4 direct benefits to, the project's qualifying subscribers. The  
5 Washington State University extension energy program may provide  
6 incentive payments prior to project certification in accordance with  
7 subsection (4) of this section.

8 (2) (~~A one-time~~) Except as provided in subsection (3) of this  
9 section, a low-income community solar incentive payment remitted to a  
10 community solar project administrator for a project certified under  
11 this section equals the sum of the following:

12 (a) An amount, not to exceed \$20,000 per community solar project,  
13 equal to the community solar project's administrative costs related  
14 to the administrative start-up of the project for qualifying  
15 subscribers; and

16 (b) An amount that does not exceed 100 percent of the  
17 proportional cost of the installed cost of the share of the community  
18 solar project that provides direct benefits to qualifying  
19 subscribers, taking into account any federal tax credits or other  
20 federal or nonfederal grants or incentives that the program is  
21 benefiting from.

22 (3) When the administrator is a utility that is purchasing energy  
23 from a community solar project that it does not own, a low-income  
24 community solar incentive payment remitted to the utility  
25 administrator for a project certified under this section equals: The  
26 cost for the utility to purchase power and the corresponding  
27 renewable energy credits from a third-party owned community solar  
28 project, under a power purchase agreement, for 10 years after project  
29 certification for the portion of the project's energy output that  
30 will provide direct benefits to qualifying subscribers over those 10  
31 years, or until such time as funding has been fully distributed,  
32 whichever comes later. All renewable energy credits must be retired  
33 on behalf of program participants or participants must be compensated  
34 for additional value from renewable energy credits. The incentives  
35 under this subsection can only be used to pay for low-income customer  
36 participation in the program. Utilities receiving incentives under  
37 this subsection may not earn a rate of return on incentives certified  
38 by the Washington State University extension energy program.

1       (4) (a) The Washington State University extension energy program  
2 may provide incentive payments during the precertification process  
3 for community solar projects that are not administered by a utility.

4       (b) Incentive payments provided under this subsection must be  
5 issued as follows:

6       (i) An incentive payment shall be made for 50 percent of project  
7 costs as identified in RCW 82.16.170(3)(g) upon precertification by  
8 the Washington State University extension energy program;

9       (ii) An incentive payment for all remaining costs shall be made  
10 upon final certification by the Washington State University extension  
11 energy program;

12       (A) A project administrator may adjust cost estimates provided  
13 under RCW 82.16.170(3)(g) by providing evidence of unavoidable cost  
14 increases prior to certification.

15       (B) The Washington State University extension energy program may  
16 approve, reject, or approve partial additional costs submitted for  
17 recovery by a community solar project administrator.

18       (C) Costs identified and approved during precertification may not  
19 be rejected unless the Washington State University extension energy  
20 program determines there have been material changes to the project  
21 design that eliminate the need for such costs.

22       (c) Incentive payments authorized by the Washington State  
23 University extension energy program and remitted prior to project  
24 certification shall be deducted from the amount the utility is  
25 provided to pay to the project administrator after project  
26 certification.

27       (d) In the event that a project receiving incentive payment prior  
28 to certification does not achieve certification within two years,  
29 achieves certification for a lesser incentive amount than what has  
30 already been disbursed, or fails to provide direct benefits to the  
31 share of qualifying subscribers used to calculate the incentive  
32 payment, it is the responsibility of the administrator to remit  
33 funding back to the Washington State University extension energy  
34 program. After being notified by the Washington State University  
35 extension energy program that they are required to do so, the  
36 administrator must within 30 days remit a payment to the state for  
37 the full amount of the incentive payment received under  
38 precertification with interest. Interest must be assessed at the rate  
39 provided for delinquent excise taxes under chapter 82.32 RCW,

1 retroactively to the date the credit was claimed, and accrues until  
2 the full amount of all amounts due are repaid.

3 (5) No new certification may be issued under this section for a  
4 community solar project that was certified under RCW 82.16.120 or  
5 82.16.165, or for a community solar project served by a utility that  
6 has elected not to participate in the incentive program provided in  
7 this section.

8 ~~((4))~~ (6) Community solar projects that are under  
9 precertification status under RCW 82.16.165 as of June 30, 2020, may  
10 not apply for precertification of that same project for the ~~((one-~~  
11 ~~time))~~ low-income community solar incentive payment provided in this  
12 section.

13 ~~((5))~~ (7)(a) In addition to the ~~((one-time))~~ low-income  
14 community solar incentive payments under subsections (2), (3), and  
15 (4) of this section, a participating utility must also provide the  
16 following compensation for the generation of electricity from the  
17 certified project:

18 (i) For a community solar project that has an alternating current  
19 nameplate capacity no greater than 100 kilowatts, and that is  
20 connected behind the electric service meter, compensation must be  
21 determined in accordance with RCW 80.60.020 and provided to the  
22 retail electric customer receiving service at the situs of the meter.

23 (ii) For all other community solar projects for which the  
24 administrator is not a utility, compensation paid to the  
25 interconnection customer must be determined in a written agreement  
26 between the interconnection customer and the utility.

27 (iii) For all other community solar projects for which the  
28 administrator is a utility, compensation must be provided directly to  
29 subscribers in accordance with subsection ~~((8))~~ (10)(a)(i) of this  
30 section.

31 (iv)(A) When the administrator of a community solar project  
32 receives compensation for the generation of electricity from a  
33 participating utility, interconnection customer, or from the retail  
34 electric customer that is the host for the community solar project,  
35 the administrator must provide all of that compensation as a direct  
36 benefit to the project subscribers, except as described in (iv)(B) of  
37 this subsection.

38 (B) An administrator may deduct ongoing administrative and  
39 maintenance costs from compensation they provide to subscribers from  
40 power generation, provided those costs are identified in the

1 subscription agreement (~~or justified to~~) and approved by the  
2 Washington State University extension energy program. The Washington  
3 State University extension energy program shall review any such  
4 administrative and maintenance costs justifications for  
5 reasonableness and approve, reject, or negotiate changes to the  
6 proposal. An administrator may request a change in the deduction for  
7 administrative and maintenance costs (~~to the Washington State~~  
8 University extension energy program only)) when there is an unplanned  
9 maintenance or repair cost if the subscription agreement includes  
10 language notifying the subscriber that administrative and maintenance  
11 fees are subject to change. If an administrator requests this change,  
12 notice must be provided to the subscribers of the fee change and  
13 provide a reason for the additional deduction.

14 (b) For 10 years after certification, and by March 1st of each  
15 year following certification, the administrator must provide the  
16 Washington State University extension energy program with signed  
17 statements of the following for the preceding year:

18 (i) The energy production for the period for which compensation  
19 is to be provided;

20 (ii) Each subscriber's units of the project;

21 (iii) The amount disbursed to each subscriber for the period. If  
22 a utility project administrator administered a community solar  
23 project certified under subsection (3) of this section, the utility  
24 project administrator must report the amount paid out for low-income  
25 customer participation, and the remaining balance of the Washington  
26 State University extension energy program's authorized incentive  
27 payment; and

28 (iv) The date and amount disbursed to each subscriber.

29 (c) Starting in fiscal year 2026, the Washington State University  
30 extension energy program must provide a report every even-numbered  
31 year to the legislature. The report must include the number of  
32 projects certified, number of subscribers per project, and total  
33 benefits resulting from all projects.

34 ~~((6))~~ (8) A utility's participation in the incentive program  
35 provided in this section is voluntary.

36 (a) The utility may terminate its voluntary participation in the  
37 program by providing notice in writing to the Washington State  
38 University extension energy program to cease accepting new  
39 applications for precertification for community solar projects that  
40 would be served by that utility. Such notice of termination of

1 participation is effective after 15 days, at which point the  
2 Washington State University extension energy program may not accept  
3 new applications for precertification for community solar projects  
4 that would be served by that utility.

5 (b) Upon receiving a utility's notice of termination of  
6 participation in the incentive program, the Washington State  
7 University extension energy program must report on its website that  
8 community solar project customers of that utility are no longer  
9 eligible to receive new certifications under the program.

10 (c) A utility that has terminated participation in the program  
11 may resume participation upon filing a notice with the Washington  
12 State University extension energy program.

13 (d) Utilities are encouraged to participate in this program by  
14 applying eligible costs and tax credits to obligations under RCW  
15 19.405.120.

16 ~~((7))~~ (9)(a) The Washington State University extension energy  
17 program may issue certifications authorizing incentive payments under  
18 this section in a total statewide amount not to exceed \$100,000,000,  
19 and subject to the following biennial dollar limits:

20 (i) For fiscal year 2023, \$300,000; and

21 (ii) For each biennium beginning on or after July 1, 2023,  
22 \$25,000,000.

23 (b) The Washington State University extension energy program must  
24 attempt to equitably distribute incentive funds throughout the state.  
25 Considerations for equitable fund distribution, based on  
26 precertification applications received from administrators served by  
27 utilities voluntarily participating in the program, may include  
28 measures to reserve or allocate available funds based on the  
29 proportion of public utility taxes collected, the proportion of the  
30 state's low-income customers served by each utility based on low-  
31 income home energy assistance program data at the department of  
32 commerce, measures to achieve an equitable geographic distribution of  
33 community solar installations and a diversity of administrative  
34 models for community solar projects, and the amount of energy burden  
35 reduction for qualifying subscribers relative to the project's cost.  
36 If an equitable distribution of funds is not feasible due to a lack  
37 of precertification applications, the Washington State University  
38 extension energy program may allocate funds based on (a) of this  
39 subsection on a first-come, first-served basis.

1 (c) The Washington State University extension energy program must  
2 ensure that at least \$2,000,000 of the statewide total for the entire  
3 program is used to support nonprofit organizations' innovative  
4 approaches to allocating benefits to subscribers, defining and  
5 valuing benefits to be provided to subscribers or other aspects of  
6 the subscriber, administrator, system host, and utility relationship.

7 (d) The Washington State University extension energy program must  
8 also ensure that at least \$2,000,000 of the statewide total for the  
9 entire program is available to tribal governments and their  
10 designated subdivisions and agencies.

11 (e) The Washington State University extension energy program must  
12 ensure that no more than 35 percent of available funding goes to  
13 utility project administrators for community solar projects certified  
14 under subsection (3) of this section.

15 (f) The Washington State University extension energy program  
16 shall regularly publish and update guidelines for how it manages the  
17 allocation of available funding, based on the evaluation of  
18 applications and the factors specified in (b) of this subsection.

19 ((+f)) (g) Beginning in fiscal year 2026, the Washington State  
20 University extension energy program may waive the requirements in (c)  
21 or (d) of this subsection if it fails to receive applications that  
22 meet the criteria of (c) or (d) of this subsection sufficient to  
23 result in the full allocation of incentives.

24 ((+8)) (10)(a) Prior to obtaining certification under this  
25 section, the administrator of a community solar project must apply  
26 for precertification against the funds available for incentive  
27 payments under subsection ((+7)) (9) of this section in order to be  
28 guaranteed an incentive payment under this section. The application  
29 for precertification must include, at a minimum:

30 (i) A demonstration of how the project will deliver continuing  
31 direct benefits to low-income subscribers. A direct benefit can  
32 include credit for the power generation for the community solar  
33 project or other mechanisms that lower the energy burden of a low-  
34 income subscriber; and

35 (ii) Any other information the Washington State University  
36 extension energy program deems necessary in determining eligibility  
37 for precertification.

38 (b) The administrator of a community solar project must complete  
39 an application for certification in accordance with the requirements  
40 of subsection ((+9)) (11) of this section within less than two years



1 of being approved for precertification status. The administrator must  
2 submit a project update to the Washington State University extension  
3 energy program after one year in precertification status.

4 ~~((9))~~ (11) To obtain certification for the ~~((one-time))~~  
5 community solar incentive payment provided under this section, a  
6 project administrator must submit to the Washington State University  
7 extension energy program an application, including, at a minimum:

8 (a) A signed statement that the applicant has not previously  
9 received a notice of eligibility from the department under RCW  
10 82.16.120 or the Washington State University extension energy program  
11 under RCW 82.16.165 entitling the applicant to receive annual  
12 incentive payments for electricity generated by the community solar  
13 project at the same meter location;

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

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

19 (d) A signed statement describing the amount of the upfront  
20 incentive and the timing, method, and distribution of estimated  
21 benefits to qualifying subscribers. The statement must describe any  
22 estimated energy burden reduction associated with the direct  
23 benefits;

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

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

29 (g)(i) Except as provided in (g)(ii) of this subsection ~~((9))~~  
30 (11), the date that the community solar project received its final  
31 electrical inspection from the applicable local jurisdiction, as well  
32 as a copy of the permit or, if the permit is available online, the  
33 permit number or other documentation deemed acceptable by the  
34 Washington State University extension energy program;

35 (ii) The Washington State University extension energy program may  
36 waive the requirement in (g)(i) of this subsection ~~((9))~~ (11),  
37 accepting an application and granting provisional certification prior  
38 to proof of final electrical inspection. Provisional certification  
39 expires 180 days after issuance, unless the applicant submits proof  
40 of the final electrical inspection from the applicable local

1 jurisdiction or the Washington State University extension energy  
2 program extends certification, for a term or terms of 30 days, due to  
3 extenuating circumstances;

4 (h) Confirmation of the number of qualifying subscribers;

5 (i) A copy of the executed agreement describing how benefits will  
6 be determined and distributed from the retail electric customer or  
7 interconnection customer to the administrator if the administrator  
8 and the retail electric customer or interconnection customer are not  
9 the same. The Washington State University extension energy program  
10 must review the executed agreement to determine that benefits are  
11 being fairly determined and that there is an adequate plan for  
12 distributing the benefits; and

13 (j) Any other information the Washington State University  
14 extension energy program deems necessary in determining eligibility  
15 and incentive levels or administering the program.

16 ~~((10) No))~~ (12) Except as described in subsection (4) of this  
17 section, no incentive payments may be authorized or accrued until the  
18 final electrical inspection and executed interconnection agreement  
19 are submitted to the Washington State University extension energy  
20 program.

21 ~~((11))~~ (13) (a) The Washington State University extension energy  
22 program must review each project for which an application for  
23 certification is submitted in accordance with subsection ~~((8))~~ (10)  
24 of this section for reasonable cost and financial structure, with a  
25 targeted installed cost for the solar energy system of \$2 per watt  
26 direct current for systems over 200 kilowatts and \$2.25 per watt  
27 direct current for systems equal to or under 200 kilowatts. For solar  
28 energy systems that include storage systems, the targeted installed  
29 cost of the storage system is \$600 per kilowatt-hour of storage  
30 capacity. The Washington State University extension energy program  
31 may adjust the targeted installation costs on an annual basis and may  
32 request additional justification of costs for any project that it  
33 deems unreasonable.

34 (b) The Washington State University extension energy program may  
35 approve an application for a project that costs more or less than the  
36 targeted installed costs under (a) of this subsection based on a  
37 review of the project, documents submitted by the project applicant,  
38 and available data. Project cost evaluations may include costs  
39 associated with energy storage systems, interconnection costs, and  
40 ~~((electrical))~~ distribution system improvements ~~((to permit grid-~~

1 ~~independent operation~~) required to meet utility interconnection  
2 standards. Applicants may petition the Washington State University  
3 extension energy program to approve a higher cost per watt or per  
4 kilowatt-hour for unusual circumstances.

5 (c) The Washington State University extension energy program may  
6 review the cost per watt target under (a) of this subsection prior to  
7 each fiscal biennium and is authorized to determine a new cost per  
8 watt target.

9 ~~((12))~~ (14) (a) Within 30 days of receipt of an application for  
10 certification, the Washington State University extension energy  
11 program must notify the applicant and, except when a utility is the  
12 applicant, the utility serving the site of the community solar  
13 project, by mail or electronically, whether certification has been  
14 granted. The certification notice must state the total dollar amount  
15 of the low-income community solar incentive payment for which the  
16 applicant is eligible under this section.

17 (b) Within 60 days of receipt of a notification under (a) of this  
18 subsection, the utility serving the site of the community solar  
19 project must remit the applicable ~~((one-time))~~ low-income community  
20 solar incentive payments to the project administrator, who accepts  
21 the payments on behalf of, and for the purpose of providing direct  
22 benefits to, the project's qualifying subscribers.

23 ~~((13))~~ (15) (a) Certification follows the community solar  
24 project if the following conditions are met using procedures  
25 established by the Washington State University extension energy  
26 program:

27 (i) The community solar project is transferred to a new owner who  
28 notifies the Washington State University extension energy program of  
29 the transfer;

30 (ii) The new owner provides an executed interconnection agreement  
31 with the utility serving the site of the community solar project; and

32 (iii) The new owner agrees to provide equivalent ongoing benefits  
33 to qualifying subscribers as the current owner.

34 (b) In the event that a qualifying subscriber terminates their  
35 participation in a community solar project during the first 120  
36 months after project certification, the system certification follows  
37 the project and participation must be transferred to a new qualifying  
38 subscriber.

1           (~~(14)~~) (16) Beginning January 1, 2023, the Washington State  
2 University extension energy program must post on its website and  
3 update at 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 and that  
8 remains available for new community solar project certifications in  
9 the state.

10          (~~(15)~~) (17) Persons receiving incentive payments under this  
11 section must keep and preserve, for a period of five years for the  
12 duration of the consumer contract, suitable records as may be  
13 necessary to determine the amount of incentive payments applied for  
14 and received.

15          (~~(16)~~) (18) The nonpower attributes of the community solar  
16 project must be retired on behalf of the subscribers unless, in the  
17 case of a utility-owned community solar project, a contract between  
18 the subscriber and utility that benefits the subscriber clearly  
19 states that the attributes will be retained and retired by the  
20 utility.

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

25          (~~(18)~~) (20) The Washington State University extension energy  
26 program may, through a public process, develop program requirements,  
27 policies, and processes necessary for the administration or  
28 implementation of this section.

29          (~~(19)~~) (21) Applications, certifications, requests for  
30 incentive payments under this section, and the information contained  
31 therein are not deemed tax information under RCW 82.32.330 and are  
32 subject to disclosure.

33          (~~(20)~~) (22) No certification may be issued under this section  
34 by the Washington State University extension energy program for a  
35 community solar project after June 30, 2035.

36          (~~(21)~~) (23) Community solar projects certified under this  
37 section must be sited on preferred sites to protect natural and  
38 working lands as determined by the Washington State University  
39 extension energy program.

40          (~~(22)~~) (24) This section expires June 30, 2038.

1       **Sec. 5.** RCW 82.16.184 and 2022 c 212 s 3 are each amended to  
2 read as follows:

3       (1) Beginning July 1, 2022, 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 RCW 82.16.183.

6       (2) The credits must be taken in a form and manner as required by  
7 the department. The credit taken under this section for the fiscal  
8 year may not exceed 1.5 percent of the business's taxable Washington  
9 power sales generated in calendar year 2014 and due under RCW  
10 82.16.020(1)(b) or \$250,000, whichever is greater, for incentive  
11 payments made for community solar projects that submit an application  
12 for precertification under RCW 82.16.183 on or after July 1, 2022,  
13 and that are certified for an incentive payment or eligible for an  
14 incentive payment upon precertification under RCW 82.16.183 in  
15 accordance with the terms of that precertification by June 30, 2033.

16       (3) The credit may not exceed the tax that would otherwise be due  
17 under this chapter. Refunds may not be granted in the place of  
18 credits.

19       (4) For any business that has claimed credit for amounts that  
20 exceed the correct amount of the incentive payable under RCW  
21 82.16.183, the amount of tax against which credit was claimed for the  
22 excess payments is immediately due and payable. The department may  
23 deduct amounts from future credits claimed by the business.

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

30       (b) A business is not liable for excess payments made in reliance  
31 on amounts reported by the Washington State University extension  
32 energy program as due and payable as provided under RCW 82.16.183, if  
33 such amounts are later found to be abnormal or inaccurate due to no  
34 fault of the business.

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

38       (6) The right to earn tax credits for incentive payments made  
39 under RCW 82.16.183 expires June 30, 2036. Credits may not be claimed  
40 under this section after June 30, 2037.

1 (7) This section expires June 30, 2038.

--- **END** ---