
SENATE BILL 5429

State of Washington 61st Legislature 2009 Regular Session

By Senators Keiser, Kauffman, Rockefeller, Shin, Kline, and Kohl-Welles

Read first time 01/22/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to providing incentives for solar electric power;
2 amending RCW 82.16.110, 82.16.120, and 82.16.130; adding a new section
3 to chapter 84.36 RCW; adding a new section to chapter 82.04 RCW;
4 creating a new section; making an appropriation; providing an effective
5 date; providing an expiration date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that solar electric
8 generating technologies have advanced significantly in the past decade,
9 and that solar power is becoming more cost-competitive with other
10 traditional and renewable generation. The legislature further finds
11 that there is a public interest in promoting greater industrial and
12 commercial applications for solar electric generation. To this end the
13 state should support pilot projects that employ industrial and
14 commercial structures for solar arrays in order to promote more
15 efficient and cost-effective solar power production. The legislature
16 further finds that such distributed solar generation will have
17 additional benefits in reducing transmission losses from grid-based
18 service, as well as contributing toward reducing greenhouse gas
19 emissions from the state's electrical service sector.

1 Therefore it is the purpose of this act to increase incentives
2 payments to businesses installing solar power for use on-site, to
3 prevent increases in property tax valuation from solar power
4 installation, and to provide additional incentives for solar power
5 installation.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 84.36 RCW
7 to read as follows:

8 (1) Property equipped with solar energy systems for the purpose of
9 heating, cooling, or generating electrical energy is exempt from ad
10 valorem taxation in an amount that equals any positive amount obtained
11 by subtracting the real market value of the property, as if it were not
12 equipped with such systems, from the real market value of the property
13 so equipped.

14 (2) This section applies to tax years beginning prior to July 1,
15 2020.

16 (3) This section does not apply to property used by a light and
17 power business for the generation of electricity.

18 **Sec. 3.** RCW 82.16.110 and 2005 c 300 s 2 are each amended to read
19 as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

22 (1) "Customer-generated electricity" means the alternating current
23 electricity that is generated from a renewable energy system located on
24 an individual's, businesses', or local government's real property that
25 is also provided electricity generated by a light and power business.
26 A system located on a leasehold interest does not qualify under this
27 definition. "Customer-generated electricity" does not include
28 electricity generated by a light and power business with greater than
29 one thousand megawatt hours of annual sales or a gas distribution
30 business.

31 (2) "Economic development kilowatt-hour" means the actual kilowatt-
32 hour measurement of customer-generated electricity multiplied by the
33 appropriate economic development factor.

34 (3) "Photovoltaic cell" means a device that converts light directly
35 into electricity without moving parts.

1 (4) "Renewable energy system" means a solar energy system, an
2 anaerobic digester as defined in RCW 82.08.900, or a wind generator
3 used for producing electricity.

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

7 (6) "Solar inverter" means the device used to convert direct
8 current to alternating current in a photovoltaic cell system.

9 (7) "Solar module" means the smallest nondivisible self-contained
10 physical structure housing interconnected photovoltaic cells and
11 providing a single direct current electrical output.

12 ~~((8) "Standards for interconnection to the electric distribution
13 system" means technical, engineering, operational, safety, and
14 procedural requirements for interconnection to the electric
15 distribution system of a light and power business.))~~

16 **Sec. 4.** RCW 82.16.120 and 2007 c 111 s 101 are each amended to
17 read as follows:

18 (1) Any individual, business, or local governmental entity, not in
19 the light and power business or in the gas distribution business, may
20 apply to the light and power business serving the situs of the system,
21 each fiscal year beginning on July 1, 2005, for an investment cost
22 recovery incentive for each kilowatt-hour from a customer-generated
23 electricity renewable energy system ~~((installed on its property that is
24 not interconnected to the electric distribution system))~~. No incentive
25 may be paid for kilowatt-hours generated before July 1, 2005, or after
26 June 30, ~~((2014))~~ 2025.

27 ~~((2) ((When light and power businesses serving eighty percent of the
28 total customer load in the state adopt uniform standards for
29 interconnection to the electric distribution system, any individual,
30 business, or local governmental entity, not in the light and power
31 business or in the gas distribution business, may apply to the light
32 and power business serving the situs of the system, each fiscal year,
33 for an investment cost recovery incentive for each kilowatt hour from
34 a customer-generated electricity renewable energy system installed on
35 its property that is not interconnected to the electric distribution
36 system and from a customer-generated electricity renewable energy
37 system installed on its property that is interconnected to the electric~~

1 ~~distribution system. Uniform standards for interconnection to the~~
2 ~~electric distribution system means those standards established by light~~
3 ~~and power businesses that have ninety percent of total requirements the~~
4 ~~same. No incentive may be paid for kilowatt hours generated before~~
5 ~~July 1, 2005, or after June 30, 2014.~~

6 (3+))(a) Before submitting for the first time the application for
7 the incentive allowed under subsection (4) of this section, the
8 applicant shall submit to the department of revenue and to the climate
9 and rural energy development center at the Washington State University,
10 established under RCW 28B.30.642, a certification in a form and manner
11 prescribed by the department that includes, but is not limited to, the
12 following information:

13 (i) The name and address of the applicant and location of the
14 renewable energy system;

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

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

19 (A) Any solar inverters and solar modules manufactured in
20 Washington state;

21 (B) A wind generator powered by blades manufactured in Washington
22 state;

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

24 (D) A solar module manufactured in Washington state; or

25 (E) Solar or wind equipment manufactured outside of Washington
26 state;

27 (iv) That the electricity can be transformed or transmitted for
28 entry into or operation in parallel with electricity transmission and
29 distribution systems;

30 (v) The date that the renewable energy system received its final
31 electrical permit from the applicable local jurisdiction.

32 (b) Within thirty days of receipt of the certification the
33 department of revenue shall notify the applicant by mail, or
34 electronically as provided in RCW 82.32.135, whether the renewable
35 energy system qualifies for an incentive under this section. The
36 department may consult with the climate and rural energy development
37 center to determine eligibility for the incentive. System

1 certifications and the information contained therein are subject to
2 disclosure under RCW 82.32.330(3)(m).

3 ~~((4))~~ (3)(a) By August 1st of each year application for the
4 incentive shall be made to the light and power business serving the
5 situs of the system by certification in a form and manner prescribed by
6 the department that includes, but is not limited to, the following
7 information:

8 (i) The name and address of the applicant and location of the
9 renewable energy system;

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

11 (iii) The date of the notification from the department of revenue
12 stating that the renewable energy system is eligible for the incentives
13 under this section;

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

16 (b) Within sixty days of receipt of the incentive certification the
17 light and power business serving the situs of the system shall notify
18 the applicant in writing whether the incentive payment will be
19 authorized or denied. The business may consult with the climate and
20 rural energy development center to determine eligibility for the
21 incentive payment. Incentive certifications and the information
22 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

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

36 (ii) If it appears that the amount of incentive paid is less than
37 the correct amount of incentive payable the business may authorize
38 additional payment.

1 ~~((+5))~~ (4) The investment cost recovery incentive may be paid
2 fifteen cents per economic development kilowatt-hour unless requests
3 exceed the amount authorized for credit to the participating light and
4 power business. For the purposes of this section, the rate paid for
5 the investment cost recovery incentive may be multiplied by the
6 following factors:

7 (a) For customer-generated electricity produced using solar modules
8 manufactured in Washington state, two and four-tenths;

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

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

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

17 ~~((+6))~~ (5) No individual, household, business, or local
18 governmental entity is eligible for incentives provided under
19 subsection (4) of this section for more than two thousand dollars per
20 year.

21 ~~((+7))~~ (6) The investment cost recovery incentive may be paid
22 fifty-four cents per kilowatt-hour generated by a commercial or
23 industrial customer consuming at least one-half of the electricity
24 generated in its commercial or industrial activities at the site of the
25 generation. No incentive provided under this subsection may exceed
26 twenty thousand dollars per utility revenue meter per year. A person
27 claiming an incentive payment under this subsection is not eligible for
28 the incentive provided under subsection (5) of this section for the
29 same calendar year.

30 (7) If requests for the investment cost recovery incentive exceed
31 the amount of funds available for credit to the participating light and
32 power business, the incentive payments shall be reduced
33 proportionately.

34 (8) The climate and rural energy development center at Washington
35 State University energy program may establish guidelines and standards
36 for technologies that are identified as Washington manufactured and
37 therefore most beneficial to the state's environment.

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

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04 RCW
6 to read as follows:

7 (1) Subject to the limits and provisions of this section, a credit
8 is allowed against the tax imposed by this chapter for a taxpayer that
9 either:

10 (a) Installs one or more solar energy systems during the taxable
11 year for commercial or industrial purposes in the taxpayer's trade or
12 business facility located in this state; or

13 (b) Receives certification from the department recognizing its
14 financing of the installation, in a facility located in this state, of
15 one or more solar energy systems during the taxable year by a third-
16 party organization that is exempt from taxation imposed under this
17 chapter.

18 (2) The amount of the credit is equal to ten percent of the
19 installed cost of the solar energy system. The person who provides or
20 installs the solar energy system must furnish the taxpayer with an
21 accounting of the installed cost.

22 (3) The taxpayer may not cumulate total tax credits under this
23 section exceeding twenty-five thousand dollars with respect to the same
24 building in the same year or fifty thousand dollars in total credits in
25 any year.

26 (4) If the allowable credit exceeds the taxes otherwise due under
27 this chapter or if there are no taxes due under this chapter, the
28 amount of the claim not used to offset taxes under this chapter may be
29 carried forward for not more than five consecutive taxable years as a
30 credit against subsequent years' tax liability.

31 (5) Co-owners of a business, including corporate partners in a
32 partnership, may each claim only the pro rata share of the credit
33 allowed under this section based on the ownership interest or financial
34 investment in the system. The total of the credits allowed all such
35 owners may not exceed the amount that would have been allowed a sole
36 owner.

1 (6) The department must establish a procedure for identifying
2 projects that qualify for the credit allowed under this section.

3 (a) To qualify for the credit, a taxpayer must apply in a form
4 prescribed by the department, including:

5 (i) The projected date that the installation of the solar energy
6 system will begin and the projected finish date;

7 (ii) The location where the solar energy system will be installed;

8 (iii) The type of solar energy system, its total cost, excluding
9 financing costs, and the estimated annual performance level; and

10 (iv) The projected amount of the credit against the tax imposed by
11 this chapter.

12 (b) The department must:

13 (i) Review and evaluate each submitted application;

14 (ii) Determine within thirty days after receiving the application
15 whether it meets applicable criteria; and

16 (iii) Provide initial certification of a project to the applicant.

17 (c) Upon the completion of each certified installation, the
18 taxpayer must certify that the installed solar energy system is
19 operational and provide the total amount of credits to be claimed. The
20 department must review the installation expenses and issue a credit
21 certificate to the business.

22 (7) If at any time the department finds that a person is not
23 eligible for a credit under this section, the amount of taxes for which
24 the credit has been claimed are immediately due. The department must
25 assess interest, but not penalties, on the taxes for which the person
26 is not eligible. The interest is assessed at the rate provided for
27 delinquent excise taxes under chapter 82.32 RCW, is retroactive to the
28 date the credit was taken, and accrues until the taxes for which the
29 credit has been used are repaid.

30 (8) As used in this section, "solar energy system" has the same
31 meaning specified in RCW 82.16.110.

32 (9) This section expires June 30, 2017.

33 **Sec. 6.** RCW 82.16.130 and 2005 c 300 s 4 are each amended to read
34 as follows:

35 (1) A light and power business shall be allowed a credit against
36 taxes due under this chapter in an amount equal to investment cost
37 recovery incentive payments made in any fiscal year under RCW

1 82.16.120. The credit shall be taken in a form and manner as required
2 by the department. The credit under this section for the fiscal year
3 shall not exceed twenty-five one-hundredths of one percent of the
4 businesses' taxable power sales due under RCW 82.16.020(1)(b) or
5 twenty-five thousand dollars, whichever is greater. The credit may not
6 exceed the tax that would otherwise be due under this chapter. Refunds
7 shall not be granted in the place of credits. Expenditures not used to
8 earn a credit in one fiscal year may not be used to earn a credit in
9 subsequent years.

10 (2) For any business that has claimed credit for amounts that
11 exceed the correct amount of the incentive payable under RCW 82.16.120,
12 the amount of tax against which credit was claimed for the excess
13 payments shall be immediately due and payable. The department shall
14 assess interest but not penalties on the taxes against which the credit
15 was claimed. Interest shall be assessed at the rate provided for
16 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
17 date the credit was claimed, and shall accrue until the taxes against
18 which the credit was claimed are repaid.

19 (3) The right to earn tax credits under this section expires June
20 30, ((2015)) 2025. Credits may not be claimed after June 30, ((2016))
21 2026.

22 NEW SECTION. **Sec. 7.** Section 5 of this act is necessary for the
23 immediate preservation of the public peace, health, or safety, or
24 support of the state government and its existing public institutions,
25 and takes effect July 1, 2009.

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