

HOUSE BILL REPORT

HB 2280

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to community solar gardens.

Brief Description: Concerning community solar gardens.

Sponsors: Representatives Morris, Hudgins, Goodman, Santos, Slatter, Lytton, Tharinger, Senn, Frame, Kloba, Ryu and Doglio.

Brief History:

Committee Activity:

Technology & Economic Development: 1/11/18, 1/30/18 [DPS].

Brief Summary of Substitute Bill

- Requires an electric utility to submit a community solar garden plan to the Utilities and Transportation Commission or to its appropriate governing authority in order to operate a community solar garden program.
- Requires an electric utility to first engage in a distributed energy resources planning process before developing a community solar garden plan.
- Establishes requirements for community solar gardens.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; Doglio, Fey, Hudgins, Santos, Slatter and Wylie.

Minority Report: Do not pass. Signed by 6 members: Representatives DeBolt, Assistant Ranking Minority Member; Manweller, McDonald, Nealey, Steele and Young.

Minority Report: Without recommendation. Signed by 1 member: Representative Harmsworth.

Staff: Nikkole Hughes (786-7156).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Community Solar Projects Under the Renewable Energy Production Incentive Program.

Under the Renewable Energy Production Incentive Program (Production Incentive Program), a person that owns a renewable energy system, an administrator of a community solar project, or a utility or business under contract with a utility that administers a shared commercial solar project may apply to the Washington State University Extension Energy Program (WSU Energy Program) for certification establishing the applicant's eligibility to receive an annual production incentive payment for each kilowatt-hour of alternating current electricity generated by the system.

Under the Production Incentive Program, a "community solar project" is a solar energy system that has a direct current nameplate generating capacity no greater than 1,000 kilowatts. A community solar project that has a generating capacity greater than 500 kilowatts must be subject to a standard interconnection agreement with the utility serving the situs of the project. A community solar project must be administered by a utility, nonprofit organization, or local housing authority and must have at least 10 participants or one participant for every 10 kilowatts of direct current nameplate capacity, whichever is greater. Except for community solar projects administered in cooperation with a joint operating agency, each participant must be a customer of the utility providing service at the situs of the community solar project.

The administrator of a community solar project must provide each project participant with a disclosure form containing all material terms and conditions of participation in the project.

The Utilities and Transportation Commission (UTC) must publish, without disclosing proprietary information, a list of:

- entities other than utilities that organize and administer community solar projects; and
- community solar projects and related programs and services offered by investor-owned utilities.

If a consumer-owned utility opts to provide a community solar program or contracts with a nonutility administrator to offer a community solar program, the governing body of the consumer-owned utility must publish, without disclosing proprietary information, a list of the nonutility administrators contracted by the utility as part of its community solar program.

Violation of the reporting and disclosure requirements for administrators of community solar projects is a violation of the Consumer Protection Act.

Community Solar Company Registration Requirements.

No community solar company may engage in business in the state or apply to the WSU Energy Program for certification under the Production Incentive Program without first registering with the UTC. The UTC is authorized to adopt rules that describe the manner by which it will register a community solar company. Failure of a community solar company to register with the UTC constitutes an unfair or deceptive act in trade or commerce in violation of the Consumer Protection Act.

"Community solar company" means a person, firm, or corporation, other than an electric utility or a community solar cooperative, that owns a community solar project and provides community solar project services to project participants.

Summary of Substitute Bill:

Community Solar Gardens.

"Community solar garden" means a facility, including a community solar project under the Cost Recovery Program or the Renewable Energy Production Incentive Program (Production Incentive Program), that generates electricity by means of a ground-mounted or roof-mounted solar photovoltaic device whereby subscribers receive a bill credit for the electricity generated in proportion to the size of their subscription and which has a capacity of no more than 500 kilowatts.

A community solar garden:

- may not have fewer than five subscribers, with no single subscriber having more than 40 percent interest in the project;
- must be located in the service territory and on the distribution system of an electric utility such that the community solar garden is located in an area that provides the most benefit on the distribution system, in accordance with the electric utility's community solar garden plan; and
- must allocate not less than 40 percent of project capacity to residential and small business customers under 25 kilowatts.

A subscription to a community solar garden must be sized to represent at least one kilowatt of the generating capacity of the community solar garden and may supply, when combined with other distributed generation resources serving the premises, no more than 105 percent of the average annual consumption of electricity by each subscriber at the premises to which the subscription is attributed.

An electric utility must provide a monetary credit or other compensatory mechanism to a community solar garden subscriber's monthly electric bill for the electricity output attributable to that subscriber in the same form and manner as provided for utility-owned community solar gardens. The monetary credit must reflect the value per kilowatt-hour of the electric output of the community solar garden as determined in accordance with the electric utility's community solar garden plan, and must be provided for not less than 25 years from the date the community solar garden becomes interconnected and energized. Subscription credits that exceed a subscriber's monthly bill must be carried over and applied to the next month's bill.

An electric utility must purchase all unsubscribed electricity generated by a community solar garden in the electric utility's service territory at a rate that reflects the value per kilowatt-hour of the electric output of the community solar garden and for a length of time as determined in accordance with the electric utility's community solar garden plan.

The environmental attributes associated with a community solar garden, including but not limited to renewable energy credits, are considered property of the community solar garden subscribers and may be distributed, sold, accumulated, or retired at the discretion of the community solar garden subscribers.

A community solar garden subscriber organization that is not subject to the consumer protection requirements under the Production Incentive Program or the community solar company registration requirements must have a process in place for dispute resolution between the subscriber organization and its subscribers.

A subscriber or subscriber organization may not be considered an electric utility solely as a result of participation in a community solar garden program.

Community Solar Garden Program Plans.

An investor-owned utility must submit a community solar garden plan to the Utilities and Transportation Commission (UTC) by January 1, 2019, in order to operate a community solar garden program. The UTC may approve, disapprove, or modify a community solar garden plan as submitted by an investor-owned utility.

A consumer-owned utility must submit a community solar garden plan to its governing authority by January 1, 2019, in order to operate a community solar garden program. The governing authority of a consumer-owned utility may approve, disapprove, or modify the utility's community solar garden plan.

In order to develop a community solar garden plan, the electric utility must first engage in a distributed energy resources planning process that accomplishes certain goals.

Within 180 days of approval of a community solar garden plan, an electric utility must begin crediting subscriber accounts of each community solar garden facility in its service territory.

Any community solar garden interconnected and energized before the effective date of the requirements for community solar gardens is excused from those requirements. The requirements apply if the community solar garden issues new subscriptions after that date.

Rulemaking.

The UTC may adopt rules as necessary to implement requirements pertaining to community solar gardens.

Substitute Bill Compared to Original Bill:

The substitute bill:

- amends the definition of "community solar garden";
- caps the amount of generating capacity that can be supplied by a community solar garden subscription at no more than 105 percent of the average annual consumption

- of electricity by each subscriber at the premises to which the subscription is attributed;
- requires that an electric utility provide a monetary credit or other compensatory mechanism to a community solar garden subscriber's monthly electric bill in the same form and manner as provided for utility-owned community solar gardens;
 - requires that an electric utility purchase all unsubscribed electricity generated by a community solar garden at a rate per kilowatt-hour and for a length of time as determined in accordance with the utility's community solar garden plan;
 - requires all environmental attributes associated with a community solar garden to be considered property of the community solar garden subscribers;
 - specifies that an investor-owned utility must submit a community solar garden plan to the Utilities and Transportation Commission in order to operate a community solar garden program;
 - specifies that a consumer-owned utility must submit a community solar garden plan to its governing authority in order to operate a community solar garden program;
 - requires that an electric utility first engage in a distributed energy resources planning process before developing a community solar garden plan;
 - specifies that any community solar garden interconnected and energized before the effective date of the act is excluded from requirements for community solar gardens, unless the community solar garden issues new subscriptions after that date; and
 - removes references to and rulemaking authority for the Department of Commerce.
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Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Community solar or shared solar is projected to have a higher growth rate than residential system installations in coming years. The intent of this bill is to provide requirements around community solar garden programs that stay in statute even if the solar incentive programs expire. Establishing standalone community solar garden requirements is important for the longevity of community solar apart from the state's subsidy programs. A well-designed community solar program can eliminate inequities in access to renewable energy. A single, larger community solar project costs less per kilowatt than equivalently-sized, individual rooftop solar arrays.

(Opposed) There are concerns and questions about land use and local government decisions when it comes to siting community solar gardens. This bill effectively establishes a virtual net metering regime separate from the existing net metering statute. It solidifies in statute a bill credit at the retail rate for 25 years, which is inappropriate given the fact that there are regional and locational value differentials between different solar arrays. The bill requires the utility to purchase unsubscribed output at the avoided cost rate, which amounts to a

wholesale transaction regulation by the federal government. Mandating the purchase of unsubscribed electric generation may also provide a perverse incentive for oversizing community solar garden systems.

(Other) This bill would benefit from a conversation with a large group of stakeholders. Clarity on the value that solar generators receive is vital. Updating the state's net metering policy should be a broader conversation than just around community solar.

Persons Testifying: (In support) Representative Morris, prime sponsor; Justin Wilson, Coalition for Community Solar Access; Amanda Jahshan, Renewable Northwest; Thad Curtz; and Jaimes Valdez, Spark Northwest.

(Opposed) Mary Catherine McAleer, Association of Washington Business; Kent Lopez, Washington Rural Electric Cooperative Association; John Rothlin, Avista; Kathleen Collins, PacifiCorp; and Brandon Houskeeper, Puget Sound Energy.

(Other) Bonnie Frye Hemphill, A&R Solar; Joni Bosh, NW Energy Coalition; Allison Arnold, Solar Installers of Washington; and Jasmine Vasavada, Department of Commerce.

Persons Signed In To Testify But Not Testifying: None.