

HOUSE BILL REPORT

HB 1814

As Reported by House Committee On:

Environment & Energy
Finance

Title: An act relating to expanding equitable access to the benefits of renewable energy through community solar projects.

Brief Description: Expanding equitable access to the benefits of renewable energy through community solar projects.

Sponsors: Representatives Shewmake, Berry, Bateman, Duerr, Macri, Ramel, Paul, Bergquist, Fitzgibbon, Pollet, Harris-Talley and Kloba.

Brief History:

Committee Activity:

Environment & Energy: 1/21/22, 2/1/22 [DPS];
Finance: 2/7/22, 2/21/22 [DP2S(w/o sub ENVI)].

Brief Summary of Second Substitute Bill

- Establishes a new community solar incentive program, to be administered by the Washington State University Extension Energy Program, for the purpose of providing direct benefits to low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers (Community Solar Expansion Program).
- Sets a statewide total cap of \$100 million for the Community Solar Expansion Program incentive payments.
- Creates a new public utility tax credit equal to the incentive payments paid by an electric utility under the Community Solar Expansion Program.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

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

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Klicker, Assistant Ranking Minority Member; Abbarno, Berry, Boehnke, Fey, Goehner, Harris-Talley, Ramel, Shewmake and Slatter.

Minority Report: Without recommendation. Signed by 1 member: Representative Dye, Ranking Minority Member.

Staff: Megan McPhaden (786-7114).

Background:

Previous Incentive Programs for Community Solar.

In 2005 the Renewable Energy Cost Recovery Incentive Payment Program (Legacy Program) was created to allow an individual, business, or local government that owns an eligible renewable energy system to apply to its electric utility for an investment cost recovery incentive payment for each kilowatt-hour (kWh) of electricity produced by the system. In 2009 the Legacy Program was expanded to include community solar projects. The Legacy Program closed to new customer participants by October 2017.

In 2017 the Washington State University Extension Energy Program (WSU Energy Program) was directed to launch and administer a program known as the Renewable Energy Production Incentive Program (Production Incentive Program), which opened to certification applicants in July 2017, and closed to new project certifications by July 2021. Under the Production Incentive Program, a person who owned a renewable energy system, an administrator of a community solar project, a utility, or a business under contract with a utility that administered a shared commercial project, could apply to the WSU Energy Program for certification establishing the applicant's eligibility to receive annual production incentive payments for each kWh of alternating current electricity generated by the system.

An electric utility may claim a credit against its public utility tax obligations for incentive payments made by the utility to a customer under the Legacy Program or the Production Incentive Program.

Summary of Substitute Bill:

Community Solar Expansion Program.

The Washington State University Extension Energy Program (WSU Energy Program) is authorized to administer and implement a new community solar incentive program that provides up to \$20 million in payments for the purpose of providing direct benefits to low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers (Community Solar Expansion Program).

A community solar project is a solar energy system that: (1) has a direct current nameplate capacity that is more than 12 kilowatts (kW) and no greater than 199 kW; (2) has at least two low-income subscribers or one low-income service provider; and (3) meets the eligibility requirements of the Community Solar Expansion Program.

Beginning July 1, 2022, through June 30, 2033, an administrator of an eligible community solar project (administrator) may apply to the WSU Energy Program to receive a precertification for the project. An administrator may be a utility, nonprofit, tribal housing authority, or other local housing authority. If the WSU Energy Program approves the precertification, within two years the project must be completed and the administrator must apply for certification. If the WSU Energy Program then certifies a project, the utility serving the site of a community solar project is authorized to remit a one-time low-income community solar incentive payment to the administrator. The administrator accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers. Qualified subscribers are low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers. For tribal and public agencies, only that portion of their subscription to a community solar project that demonstrates benefits to low-income beneficiaries is considered qualified.

A utility's participation in the Community Solar Expansion Program is voluntary.

Incentive Payments and Compensation for Community Solar Projects Under the Community Solar Expansion Program.

The WSU Energy Program may certify community solar projects to receive one-time incentive payments in a total statewide amount not to exceed \$20 million and subject to the following dollar limits:

- for fiscal year 2023, \$300,000; and
- for each biennium beginning on or after July 1, 2023, \$5 million.

Of the \$20 million authorized for low-income community solar incentive payments:

- \$2 million must be used to support nonprofit organizations' innovative approaches to allocating benefits to subscribers, defining and valuing benefits to be provided to subscribers or other aspects of the subscriber, administrator, system host, and utility relationship; and
- \$2 million must be available to tribal governments and their designated subdivisions and agencies.

Beginning in fiscal year 2026, the WSU Energy Program may waive these \$2 million requirements if the applications it receives are insufficient to fully allocate these funds.

The WSU Energy Program must attempt to equitably distribute incentive funds throughout the state. When considering how to equitably distribute funds, the WSU Energy Program may consider various measures including the amount of energy burden reduction for qualifying subscribers relative to the project's cost.

The one-time low-income community solar incentive payment equals the sum of:

- the administrative costs related to starting up the project for qualifying subscribers, which is not to exceed \$20,000 per project; and
- the installed cost of the portion of the project that provides direct benefits to qualifying subscribers, not to exceed 100 percent of this cost. The installed cost includes only the renewable energy system components and fees that are integral and necessary for the generation of electricity, such as solar modules and inverters, labor, and sales tax, but does not include components such as roofing and energy storage. The installed cost payment must consider any federal tax credits or other grants or incentives that the program is benefitting from.

In addition to the one-time low-income community solar incentive payment for administrative and installed costs, a participating utility must also provide the administrator of a community solar project compensation for the generation of electricity from the certified project as follows:

- for a community solar project that has an alternating current nameplate capacity greater than 12 kW but no greater than 100 kW, and that is connected behind the electric service meter, compensation must be determined in accordance with the state's net metering requirements and provided to the metered customer receiving service at the situs of the meter; and
- for a community solar project that has a capacity greater than 100 kW but not greater than 199 kW, compensation must be determined at a value set by the participating utility and paid to the administrator or subscribers according to the agreement between the project and the utility.

Regarding ongoing administrative costs, an administrator may deduct these costs from compensation provided from power generation, provided these costs are in the subscription agreement or justified to the WSU Energy Program. The WSU Energy Program must review these cost justifications and approve, reject, or negotiate changes to the proposal. An administrator may request a change in these cost deductions only if the subscription agreement includes language notifying the subscriber that administrative fees are subject to change.

If the utility provides compensation for the generation of electricity to the administrator, the administrator must provide that compensation to the project subscribers.

Project Certification and Incentive Payment Process.

Prior to obtaining certification, the administrator of an eligible community solar project must apply for precertification against the funds available for incentive payments under the Community Solar Expansion Program to be guaranteed a low-income community solar incentive payment. The application for precertification must include, at a minimum:

- a demonstration of how the project will deliver direct benefits to low-income subscribers; and

- any other information the WSU Energy Program deems necessary in determining eligibility for precertification.

Projects with precertification applications approved by the WSU Energy Program have two years to complete their projects and apply for full certification, but if they have not completed certification within this time frame, they may apply to the WSU Energy Program for up to a 180-day extension.

An administrator must complete their application within less than two years of being approved for precertification status and must provide a project update to the WSU Energy Program after one year. The certification application must include certain specified information, including a signed statement of the total project costs, available system operation data such as estimated shading, and any other information the WSU Energy Program deems necessary for the review.

The WSU Energy Program must review each project for reasonable cost and financial structure, with a targeted installed cost of \$2 per watt direct current for systems over 200 kW and \$2.25 per watt direct current for systems under 200 kW. The WSU Energy Program may approve an application for a project that costs more or less than this targeted installed cost based on a review of the project, documents submitted by the project applicant, and available data. Project cost evaluations must exclude costs associated with energy storage systems and electrical system improvements to permit grid-independent operation. The WSU Energy Program may review the cost per watt target prior to each fiscal biennium and is authorized to determine a new cost per watt target.

Within 30 days of receiving a certification application, the WSU Energy Program must let the utility serving the site of the project know whether certification has been granted. Within 60 days of receiving this notification, this utility must remit the applicable low-income community solar incentive payment to the project administrator for the purpose of providing direct benefits to the project's qualifying subscribers.

If the project is transferred to a new owner, certification stays with the project if certain conditions are met. During the first 10 years of certification, if a qualified subscriber stops participating in the project, participation must be transferred to a new qualifying subscriber. If a low-income subscriber moves to a new home within 10 years of certification, the subscriber may continue the subscription if the new household premise is served by the same utility that serves the community solar project.

The nonpower attributes of the project must be retired on behalf of the subscribers unless, in the case of a utility-owned community solar project, a contract between the subscriber that benefits the subscriber clearly states that the attributes will be retained and retired by the utility.

No certification may be issued by the WSU Energy Program under the Community Solar

Expansion Program after June 30, 2035.

Community Solar Project Eligibility Requirements.

To receive certification for a low-income community solar incentive payment beginning July 1, 2022, a community solar project must meet various requirements, including:

- The administrator must demonstrate how the project will deliver continuing direct benefits to low-income subscribers. These benefits could include credit for the power generated by a community solar project or other mechanisms that lower the energy burden.
- The administrator must verify that subscribers meet the definition of low-income. An entity with authority to maintain the confidentiality of the income status of the qualified subscriber must provide the administrator with this verification. If this entity incurs costs to verify low-income status, the administrator must reimburse the entity for those costs.
- The project must be located on "preferred sites," as determined by the WSU Energy Program. "Preferred sites" are rooftops, structures, existing impervious surfaces, landfills, brownfields, previously developed sites, irrigation canals and ponds, stormwater collection ponds, industrial areas, dual-use solar projects that ensure ongoing agricultural operations, and other sites that do not displace critical habitat or productive farmland as defined by state and county planning processes.

Reporting.

The WSU Energy Program must post and update a report on its website at least every month that includes, by utility:

- the number of certifications issued for community solar projects; and
- an estimate of the amount of credit that has not been allocated for low-income community solar incentive payments and that remains available for new community solar project certifications.

Public Utility Tax Credits.

Beginning July 1, 2022, an electric utility is allowed a credit against its public utility tax obligations in an amount equal to low-income community solar incentive payments made under the Community Solar Expansion Program. The credit for the fiscal year may not exceed 1.5 percent of the business's taxable power sales generated in calendar year 2014 or \$250,000, whichever is greater. The credit may not exceed the tax that would otherwise be due. Refunds may not be granted in the place of credits. No credits may be earned after June 30, 2036, and credits may not be claimed after June 30, 2037.

The tax preferences created in the Community Solar Expansion Program are exempt from the requirement that a new tax preference must include a tax preference performance statement.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- does not extend the date for community solar projects to be certified under the existing Renewable Energy Production Incentive Program and removes the sections related to this program;
- removes the 2023 Joint Legislative Audit and Review Committee tax preference performance review requirement for the incentive program that had a tax preference review conducted in 2021;
- adds a definition for "low-income" and amends the definition of "low-income service provider" to clarify that these service providers must provide services to low-income households as part of their core mission;
- removes the \$500 preapplication fee;
- adds "the amount of energy burden reduction for qualifying subscribers relative to the project's cost" as a measure the Washington State University Extension Energy Program (WSU Energy Program) may consider when distributing incentive funds;
- clarifies that the WSU Energy Program is the entity that determines whether community solar projects are sited on preferred sites;
- requires that for the administrator to request a change in the deduction of administrative costs from compensation provided from power generation, the subscription agreement must include language notifying the subscriber that administrative fees are subject to change;
- allows the WSU Energy program to waive the \$2 million carveout requirements if they do not receive enough applications to fully allocate these funds, beginning in fiscal year 2026;
- specifies that for utility-owned community solar projects, the utility may retain and retire the nonpower attributes if this is clearly stated in a contract between the subscriber that benefits the subscriber; and
- corrects references.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 1, 2022.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Solar in Washington has primarily benefitted wealthier Washingtonians. The most recent incentive program in Washington was overwhelmingly popular and sold out quickly. Net metering had the biggest impact on creating a solar incentive in this state, which helped solar become affordable for the middle class, but left out low-income people. The previous incentive program exacerbated the wealth gap by incentivizing projects for customers with existing capital and capacity. This bill will close an equity gap by helping

customers who have been previously underserved to save money on utility bills and removes the barrier of homeownership. Community solar projects provide long-term economic relief for those who need it. This bill is 100 percent focused on low-income beneficiaries. This bill creates opportunities for communities that have previously been excluded. It allows housing authorities, food banks, and other community groups to be involved. This bill has carveouts for nonprofits and tribal entities. Solar has been unplanned and uncoordinated thus far, and this bill addresses that issue by ensuring these projects won't displace farmland or critical habitat because they must be on preferred sites. The Legislature passed an earlier version of this bill two years ago which was vetoed because of the pandemic.

(Opposed) None.

(Other) Spending money on these projects won't do anything to reduce carbon dioxide (CO2) emissions. Small solar projects are the most expensive form of renewable energy, and Western Washington is the worst place outside of Alaska for solar energy. Washington's electricity will already be CO2-free in 2030 so additional solar will only displace lower-cost forms of CO2 electricity. There are better ways to invest taxpayer dollars to reduce emissions and allow everyone to access renewable energy at a lower cost.

Persons Testifying: (In support) Representative Sharon Shewmake, prime sponsor; Adam Maxwell, Audubon Washington; Addie Candib, American Farmland Trust; Ben Silesky, Olympia Community Solar; Todd Currier, Washington State University Extension Energy Program; Markus Virta, Washington Solar Energy Industries Association; Cassie Bordelon, Puget Sound Energy; Christine Brewer, The Avista Corporation; Logan Bahr, Tacoma Public Utilities; and Mikhaila Gonzales, Spark Northwest.

(Other) Todd Myers, Washington Policy Center.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Environment & Energy. Signed by 11 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Thai and Wylie.

Minority Report: Do not pass. Signed by 6 members: Representatives Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Stokesbary, Vick and Young.

Staff: Kyle Raymond (786-7190).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Environment & Energy:

The Finance Committee recommended the following changes to the substitute bill:

- The total statewide cap on incentive payments is increased from \$20,000,000 to \$100,000,000, and the biennial cap on incentive payments is increased from \$5,000,000 to \$25,000,000.
- The size cap on community solar systems is increased from 199 kilowatts (kW) to 1,000 kW of direct current nameplate capacity.
- Energy storage systems are authorized to be part of a community solar project, and incentive payments are authorized to cover up to 100 percent of the cost to install these storage systems.
- The compensation for electricity generated by a community solar project from the utility to the subscribers for projects that have a capacity of more than 100 kW is modified by providing that: (1) if the administrator is not a utility, then the utility provides the compensation to the retail electric customer, instead of to the administrator, and a written agreement explaining the plan for how benefits will be determined and paid to the retail electric customer must be included; (2) if the administrator is a utility, compensation must be delivered in a way that provides continuing direct benefits to low-income subscribers; and (3) the administrator of a community solar project is allowed to spend some of the compensation on maintenance costs for the community solar project, with the same requirements as the already authorized administrative cost deductions.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill uses a public utility tax credit to help and encourage low-income individuals to participate the solar economy. This bill helps provide equity. Not everyone has the ability to own property, purchase solar panels, and receive the existing credit. The upfront costs of solar panels can be a barrier for low-income individuals, and this bill helps address this issue through providing the upfront capital costs for community solar projects. In addition, the bill allows for people who do not own their house to own a share in a community solar project.

As the utility shutoff moratorium ends, the cost of electricity is putting additional pressure on already strained families. This low-income solar program will leverage clean energy to

provide long term economic to communities most burdened by energy bills. The program funding should be increased, as this program includes 20 percent of the amount of funding included in the program passed in 2017, which overwhelmingly benefits high income families.

Any new solar program should take measures to protect natural and working lands. This bill does this through requiring solar projects to be located on preferred sites, which will help solar development occur in developed areas. Locating projects on preferred sites helps protect Washington farmland.

A less centralized electric grid is needed in the state, and community solar projects provide opportunities for innovation in decentralizing the electric grid.

(Opposed) Hydroelectric is a great source of power, and we need to stick with this power source. Solar may be a viable secondary source, but it should not become a sole source of electrical support because it cannot be sustained.

Persons Testifying: (In support) Representative Sharon Shewmake, prime sponsor; Mason Rolph, Olympia Community Solar; and Dani Madrone, American Farmland Trust.

(Opposed) Laurie Layne.

Persons Signed In To Testify But Not Testifying: None.