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**HOUSE BILL 2388**

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**State of Washington 68th Legislature 2024 Regular Session**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Compliance with planning requirements;

(c) Construction and materials management; and

(d) Project maintenance and management.

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

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

(1) Nonprofit organizations;

(2) Local governments;

(3) Federally recognized tribal governments and tribal entities;

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

(5) State agencies;

(6) Housing authorities;

(7) Ports;

(8) Transit agencies;

(9) Research organizations; and

(10) For-profit entities.

NEW SECTION. **Sec.**  (1) In soliciting and evaluating proposals, awarding contracts, and monitoring projects under this section, the department must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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