
SUBSTITUTE HOUSE BILL 1399

State of Washington

61st Legislature

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By House Technology, Energy & Communications (originally sponsored by Representatives Chase, Campbell, McCoy, Moeller, Kirby, Conway, Williams, Upthegrove, Sells, O'Brien, Carlyle, Pedersen, Green, Cody, Haigh, Miloscia, Kenney, Rolfes, Appleton, Dunshee, Roberts, Sullivan, Quall, Dickerson, Hudgins, Nelson, Goodman, Simpson, and Ormsby)

READ FIRST TIME 02/16/09.

1 AN ACT Relating to renewable energy system cost recovery; amending
2 RCW 82.16.110, 82.16.120, and 82.16.130; and adding a new section to
3 chapter 80.01 RCW.

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

5 **Sec. 1.** RCW 82.16.110 and 2005 c 300 s 2 are each amended to read
6 as follows:

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

9 (1) "Approved monitoring device" means any mechanism designed to
10 measure kilowatt hours that is approved by the Washington State
11 University energy program.

12 (2) "Community solar project" means: (a) A solar energy system
13 owned by local individuals, households, or businesses that is placed on
14 the property owned by their cooperating local governmental entity or a
15 cooperative association; or (b) a utility-owned solar energy system
16 that is voluntarily funded by the ratepayers of the utility where in
17 exchange for their financial support, the utility gives contributors a
18 credit on their utility bill or payment for the value of the
19 electricity produced by the project.

1 (3) "Cooperative association" means an employee cooperative
2 association as defined under RCW 23.78.010.

3 (4) "Customer-generated ((electricity)) kilowatt hours" means the
4 ((alternating current electricity)) measured energy that is generated
5 from a renewable energy system located on an individual's, businesses',
6 or local government's real property that is also provided electricity
7 generated by a light and power business. Except for community solar
8 projects, a system located on a leasehold interest does not qualify
9 under this definition. ((~~"Customer-generated electricity" does not~~
10 include electricity generated by a light and power business with
11 greater than one thousand megawatt hours of annual sales or a gas
12 distribution business.

13 (+2)) (5) "Domestic heat pump water heating system" means a device
14 that has the primary purpose of reducing demand for electricity or
15 natural gas through water heating, space heating, or other methods of
16 capturing energy ambient air for household use.

17 (6) "Economic development kilowatt-hour" means the actual kilowatt-
18 hour measurement of customer-generated ((electricity)) kilowatt hours
19 multiplied by the appropriate economic development factor.

20 ((+3)) (7) "Local government entity" means any unit of local
21 government of this state including, but not limited to, counties,
22 cities, towns, municipal corporations, quasi-municipal corporations,
23 special purpose districts, and school districts.

24 (8) "Photovoltaic cell" means a device that converts light directly
25 into electricity without moving parts.

26 ((+4)) (9) "Renewable energy system" means a solar energy system,
27 an anaerobic digester as defined in RCW 82.08.900, or a wind generator
28 used for producing electricity.

29 ((+5)) (10) "Solar energy system" means any device or combination
30 of devices or elements that rely upon direct sunlight as an energy
31 source for use in the generation of electricity.

32 ((+6)) (11) "Solar inverter" means the device used to convert
33 direct current to alternating current in a photovoltaic cell system.

34 ((+7)) (12) "Solar module" means the smallest nondivisible self-
35 contained physical structure housing interconnected photovoltaic cells,
36 or a heat engine and generator, and providing a single direct current
37 electrical output.

1 ~~((8) "Standards for interconnection to the electric distribution~~
2 ~~system" means technical, engineering, operational, safety, and~~
3 ~~procedural requirements for interconnection to the electric~~
4 ~~distribution system of a light and power business)) (13) "Solar water~~
5 ~~heating system" means a solar energy device that has the primary~~
6 ~~purpose of reducing demand for electricity or natural gas through water~~
7 ~~heating, space heating, or other methods of capturing energy from the~~
8 ~~sun to reduce electric or natural gas consumption in a home or~~
9 ~~business, and is certified by the solar rating and certification~~
10 ~~corporation. "Solar water heating systems" do not include solar pool~~
11 ~~heating systems.~~

12 **Sec. 2.** RCW 82.16.120 and 2007 c 111 s 101 are each amended to
13 read as follows:

14 (1) Any individual, business, or local governmental entity(~~(, not~~
15 ~~in the light and power business or in the gas distribution business,))~~
16 may apply to the light and power business serving the situs of the
17 system, each fiscal year beginning on July 1, 2005, for an investment
18 cost recovery incentive for each kilowatt-hour (~~from a customer-~~
19 ~~generated electricity)) generated by up to one solar electric, wind,~~
20 ~~biomass, solar hot water, and domestic hot water heat pump renewable~~
21 ~~energy system installed on its property that is not interconnected to~~
22 ~~the electric distribution system. No incentive may be paid for~~
23 ~~kilowatt-hours generated before July 1, 2005, or after June 30,~~
24 ~~((2014)) 2020, or retroactively for previously generated economic~~
25 ~~development kilowatt hours.~~

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

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

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

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

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

15 (iii) That the ~~((electricity))~~ kilowatts produced by the applicant
16 meets the definition of "customer-generated ~~((electricity))~~ kilowatt
17 hours" and that the renewable energy system produces ~~((electricity))~~
18 kilowatts 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 (F) A solar water heating system or domestic hot water heat pump
28 manufactured in the state of Washington; or

29 (G) A solar water heating system or domestic hot water heat pump
30 manufactured outside of the state of Washington;

31 (iv) That ~~((the))~~ any electricity can be transformed or transmitted
32 for entry into or operation in parallel with electricity transmission
33 and distribution systems;

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

36 (b) Within thirty days of receipt of the certification the
37 department of revenue shall notify the applicant by mail, or
38 electronically as provided in RCW 82.32.135, whether the renewable

1 energy system qualifies for an incentive under this section. The
2 department may consult with the climate and rural energy development
3 center to determine eligibility for the incentive. System
4 certifications and the information contained therein are subject to
5 disclosure under RCW 82.32.330(3)(m).

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

11 (i) The name and address of the applicant and location of the
12 renewable energy system;

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

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

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

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

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

1 (ii) If it appears that the amount of incentive paid is less than
2 the correct amount of incentive payable the business may authorize
3 additional payment.

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

10 (a) For customer-generated ~~((electricity))~~ kilowatt hours produced
11 using solar modules manufactured in Washington state, ~~((two and four-~~
12 ~~tenths))~~ one and eight-tenths;

13 (b) For customer-generated ~~((electricity))~~ kilowatt hours produced
14 using a solar or a wind generator equipped with an inverter
15 manufactured in Washington state, one and two-tenths;

16 (c) For customer-generated ~~((electricity))~~ kilowatt hours produced
17 using an anaerobic digester, or by other solar equipment or using a
18 wind generator equipped with blades manufactured in Washington state,
19 one; ~~((and))~~

20 (d) For all other customer-generated ~~((electricity))~~ kilowatt hours
21 produced by wind, eight-tenths;

22 (e) For customer-generated kilowatt hours produced by a solar hot
23 water system or a domestic hot water heat pump made in Washington, one-
24 third; and

25 (f) For customer-generated kilowatt hours produced by a solar hot
26 water system or a domestic hot water heat pump not made in Washington,
27 one-fifth.

28 ~~((+6))~~ (5) No individual, household, business, or local
29 governmental entity is eligible for incentives for more than two
30 thousand dollars per year, except that each participant in a community
31 solar project is eligible up to five thousand dollars per year.

32 ~~((+7))~~ (6) If requests for the investment cost recovery incentive
33 exceed the amount of funds available for credit to the participating
34 light and power business, the incentive payments shall be reduced
35 proportionately.

36 ~~((+8))~~ (7) The climate and rural energy development center at
37 Washington State University energy program may establish guidelines and

1 standards for technologies that are identified as Washington
2 manufactured and therefore most beneficial to the state's environment.

3 ~~((+9))~~ (8) The environmental attributes of the renewable energy
4 system belong to ~~((the applicant, and do not transfer to the state or))~~
5 the light and power business serving the situs of the system upon
6 receipt of the investment cost recovery incentive.

7 **Sec. 3.** RCW 82.16.130 and 2005 c 300 s 4 are each amended to read
8 as follows:

9 (1) A light and power business ~~((shall be))~~ is allowed a credit
10 against taxes due under this chapter in an amount equal to investment
11 cost recovery incentive payments made in any fiscal year under RCW
12 82.16.120. The credit ~~((shall))~~ must be taken in a form and manner as
13 required by the department. The credit under this section for the
14 fiscal year ~~((shall))~~ may not exceed ~~((twenty-five one hundredths of))~~
15 one percent of the businesses' taxable power sales due under RCW
16 82.16.020(1)(b) or ~~((twenty-five))~~ one hundred thousand dollars,
17 whichever is greater, except that utility-owned community solar
18 projects as defined in RCW 82.16.110(2)(b) may only account for up to
19 twenty-five percent of the credit taken. The credit may not exceed the
20 tax that would otherwise be due under this chapter. Refunds ~~((shall))~~
21 may not be granted in the place of credits. Expenditures not used to
22 earn a credit in one fiscal year may not be used to earn a credit in
23 subsequent years.

24 (2) For any business that has claimed credit for amounts that
25 exceed the correct amount of the incentive payable under RCW 82.16.120,
26 the amount of tax against which credit was claimed for the excess
27 payments ~~((shall be))~~ is immediately due and payable. The department
28 ~~((shall))~~ must assess interest but not penalties on the taxes against
29 which the credit was claimed. Interest ~~((shall))~~ must be assessed at
30 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
31 retroactively to the date the credit was claimed, and ~~((shall accrue))~~
32 accrues until the taxes against which the credit was claimed are
33 repaid.

34 (3) The right to earn tax credits under this section expires June
35 30, ~~((2015))~~ 2019. Credits may not be claimed after June 30, ~~((2016))~~
36 2020.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.01 RCW
2 to read as follows:

3 The utilities and transportation commission shall develop and make
4 recommendations to the legislature on how gas distribution companies
5 may be allowed to participate in the cost recovery incentive program
6 and receive a public utility tax credit under chapter 82.16 RCW.

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