
HOUSE BILL 1144

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By Representatives McCoy, Crouse, Eddy, Morris, Haler, Kelley, Lias, Jacks, Frockt, and Hudgins

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1 AN ACT Relating to renewable energy investment cost recovery
2 program; amending RCW 82.16.130; and reenacting and amending RCW
3 82.16.110 and 82.16.120.

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

5 **Sec. 1.** RCW 82.16.110 and 2010 c 202 s 1 and 2010 c 106 s 225 are
6 each reenacted and amended to read as follows:

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

9 (1) "Administrator" means an owner and assignee of a community
10 solar project as defined in subsection (2)(a)(i) of this section that
11 is responsible for applying for the investment cost recovery incentive
12 on behalf of the other owners and performing such administrative tasks
13 on behalf of the other owners as may be necessary, such as receiving
14 investment cost recovery incentive payments, and allocating and paying
15 appropriate amounts of such payments to the other owners.

16 (2)(a) "Community solar project" means:

17 (i) A solar energy system that is capable of generating up to
18 seventy-five kilowatts of electricity and is owned by local
19 individuals, households, nonprofit organizations, or nonutility

1 businesses that is placed on the property owned by a cooperating local
2 governmental entity (~~that~~) or an institution of higher education, if
3 the cooperating entity or institution is not in the light and power
4 business or in the gas distribution business;

5 (ii) A utility-owned solar energy system that is capable of
6 generating up to seventy-five kilowatts of electricity and that is
7 voluntarily funded by the utility's ratepayers where, in exchange for
8 their financial support, the utility gives contributors a payment or
9 credit on their utility bill for the value of the electricity produced
10 by the project; or

11 (iii) A solar energy system, placed on the property owned by a
12 cooperating local governmental entity (~~that~~) or an institution of
13 higher education, if the cooperating entity or institution is not in
14 the light and power business or in the gas distribution business,
15 (~~that~~) and the solar energy system is capable of generating up to
16 seventy-five kilowatts of electricity(~~7~~) and (~~that~~) is owned by a
17 company whose members are each eligible for an investment cost recovery
18 incentive for the same customer-generated electricity as provided in
19 RCW 82.16.120.

20 (b) For the purposes of "community solar project" as defined in (a)
21 of this subsection:

22 (i) "Company" means an entity that is:

23 (A)(I) A limited liability company;

24 (II) A cooperative formed under chapter 23.86 RCW; or

25 (III) A mutual corporation or association formed under chapter
26 24.06 RCW; and

27 (B) Not a "utility" as defined in this subsection (2)(b); and

28 (ii) "Nonprofit organization" means an organization exempt from
29 taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
30 code of 1986, as amended, as of January 1, 2009; and

31 (iii) "Utility" means a light and power business, an electric
32 cooperative, or a mutual corporation that provides electricity service.

33 (3) "Customer-generated electricity" means a community solar
34 project or the alternating current electricity that is generated from
35 a renewable energy system located in Washington and installed on an
36 individual's, businesses', or local government's real property that is
37 also provided electricity generated by a light and power business.
38 Except for community solar projects, a system located on a leasehold

1 interest does not qualify under this definition. Except for utility-
2 owned community solar projects, "customer-generated electricity" does
3 not include electricity generated by a light and power business with
4 greater than one thousand megawatt hours of annual sales or a gas
5 distribution business.

6 (4) "Economic development kilowatt-hour" means the actual kilowatt-
7 hour measurement of customer-generated electricity multiplied by the
8 appropriate economic development factor.

9 (5) "Local governmental entity" means any unit of local government
10 of this state including, but not limited to, counties, cities, towns,
11 municipal corporations, quasi-municipal corporations, special purpose
12 districts, and school districts.

13 (6) "Photovoltaic cell" means a device that converts light directly
14 into electricity without moving parts.

15 (7) "Renewable energy system" means a solar energy system, an
16 anaerobic digester as defined in RCW 82.08.900, or a wind generator
17 used for producing electricity.

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

21 (9) "Solar inverter" means the device used to convert direct
22 current to alternating current in a photovoltaic cell system.

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

26 (11) "Institution of higher education" means a state university,
27 regional university, or The Evergreen State College as defined in RCW
28 28B.10.016; or a community college or a technical college as defined in
29 RCW 28B.50.030.

30 (12) "Stirling converter" means a device that produces electricity
31 by converting heat from a solar source utilizing a stirling engine.

32 (13) "Solar inverter system" means a device assembled at the
33 manufacturing facility and ready for installation as part of a solar
34 energy system. A solar inverter system must contain a solar inverter
35 and, at a minimum, alternating current and direct current disconnects.

36 **Sec. 2.** RCW 82.16.120 and 2010 c 202 s 2 and 2010 c 106 s 103 are
37 each reenacted and amended to read as follows:

1 (1)(a) Any individual, business, local governmental entity, not in
2 the light and power business or in the gas distribution business, or a
3 participant in a community solar project may apply to the light and
4 power business serving the situs of the system, each fiscal year
5 beginning on July 1, 2005, for an investment cost recovery incentive
6 for each kilowatt-hour from a customer-generated electricity renewable
7 energy system.

8 (b) In the case of a community solar project as defined in RCW
9 82.16.110(2)(a)(i), the administrator must apply for the investment
10 cost recovery incentive on behalf of each of the other owners.

11 (c) In the case of a community solar project as defined in RCW
12 82.16.110(2)(a)(iii), the company owning the community solar project
13 must apply for the investment cost recovery incentive on behalf of each
14 member of the company.

15 (2)(a) Before submitting for the first time the application for the
16 incentive allowed under subsection (4) of this section, the applicant
17 must submit to the department of revenue and to the climate and rural
18 energy development center at the Washington State University,
19 established under RCW 28B.30.642, a certification in a form and manner
20 prescribed by the department that includes, but is not limited to, the
21 following information:

22 (i) The name and address of the applicant and location of the
23 renewable energy system.

24 (A) If the applicant is an administrator of a community solar
25 project as defined in RCW 82.16.110(2)(a)(i), the certification must
26 also include the name and address of each of the owners of the
27 community solar project.

28 (B) If the applicant is a company that owns a community solar
29 project as defined in RCW 82.16.110(2)(a)(iii), the certification must
30 also include the name and address of each member of the company;

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

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

35 (A) Any solar inverters and solar modules manufactured in
36 Washington state;

37 (B) A wind generator powered by blades manufactured in Washington
38 state;

1 (C) A solar inverter manufactured in Washington state or solar
2 inverter system manufactured in Washington state;

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

4 (E) A stirling converter manufactured in Washington state;

5 (F) Solar or wind equipment manufactured outside of Washington
6 state; or

7 (G) A wind generator with a generating capacity of no more than
8 five kilowatts;

9 (iv) That the electricity can be transformed or transmitted for
10 entry into or operation in parallel with electricity transmission and
11 distribution systems; and

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

14 (b) Within thirty days of receipt of the certification the
15 department of revenue must notify the applicant by mail, or
16 electronically as provided in RCW 82.32.135, whether the renewable
17 energy system qualifies for an incentive under this section. The
18 department may consult with the climate and rural energy development
19 center to determine eligibility for the incentive. System
20 certifications and the information contained therein are subject to
21 disclosure under RCW 82.32.330(3)(1).

22 (3)(a) By August 1st of each year application for the incentive
23 must be made to the light and power business serving the situs of the
24 system by certification in a form and manner prescribed by the
25 department that includes, but is not limited to, the following
26 information:

27 (i) The name and address of the applicant and location of the
28 renewable energy system.

29 (A) If the applicant is an administrator of a community solar
30 project as defined in RCW 82.16.110(2)(a)(i), the application must also
31 include the name and address of each of the owners of the community
32 solar project.

33 (B) If the applicant is a company that owns a community solar
34 project as defined in RCW 82.16.110(2)(a)(iii), the application must
35 also include the name and address of each member of the company;

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

37 (iii) The date of the notification from the department of revenue

1 stating that the renewable energy system is eligible for the incentives
2 under this section; and

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

5 (b) Within sixty days of receipt of the incentive certification the
6 light and power business serving the situs of the system must notify
7 the applicant in writing whether the incentive payment will be
8 authorized or denied. The business may consult with the climate and
9 rural energy development center to determine eligibility for the
10 incentive payment. Incentive certifications and the information
11 contained therein are subject to disclosure under RCW 82.32.330(3)(1).

12 (c)(i) Persons, administrators of community solar projects, and
13 companies receiving incentive payments must keep and preserve, for a
14 period of five years, suitable records as may be necessary to determine
15 the amount of incentive applied for and received. Such records must be
16 open for examination at any time upon notice by the light and power
17 business that made the payment or by the department. If upon
18 examination of any records or from other information obtained by the
19 business or department it appears that an incentive has been paid in an
20 amount that exceeds the correct amount of incentive payable, the
21 business may assess against the person for the amount found to have
22 been paid in excess of the correct amount of incentive payable and must
23 add thereto interest on the amount. Interest is assessed in the manner
24 that the department assesses interest upon delinquent tax under RCW
25 82.32.050.

26 (ii) If it appears that the amount of incentive paid is less than
27 the correct amount of incentive payable the business may authorize
28 additional payment.

29 (4) Except for community solar projects, the investment cost
30 recovery incentive may be paid fifteen cents per economic development
31 kilowatt-hour unless requests exceed the amount authorized for credit
32 to the participating light and power business. For community solar
33 projects, the investment cost recovery incentive may be paid thirty
34 cents per economic development kilowatt-hour unless requests exceed the
35 amount authorized for credit to the participating light and power
36 business. For the purposes of this section, the rate paid for the
37 investment cost recovery incentive may be multiplied by the following
38 factors:

1 (a) For customer-generated electricity produced using solar modules
2 or solar stirling converter manufactured in Washington state, two and
3 four-tenths;

4 (b) For customer-generated electricity produced using a solar or a
5 wind generator equipped with an inverter manufactured in Washington
6 state or solar inverter system manufactured in Washington state, one
7 and two-tenths;

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

11 (d) For all other customer-generated electricity produced by wind,
12 eight-tenths; and

13 (e) For customer-generated electricity produced by a wind generator
14 with a generating capacity of no more than five kilowatts, three and
15 three-tenths.

16 (5)(a) No individual, household, business, or local governmental
17 entity is eligible for incentives provided under subsection (4) of this
18 section for more than five thousand dollars per year.

19 (b) Except as provided in (c) through (e) of this subsection (5),
20 each applicant in a community solar project is eligible for up to five
21 thousand dollars per year.

22 (c) Where the applicant is an administrator of a community solar
23 project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible
24 for an incentive but only in proportion to the ownership share of the
25 project, up to five thousand dollars per year.

26 (d) Where the applicant is a company owning a community solar
27 project that has applied for an investment cost recovery incentive on
28 behalf of its members, each member of the company is eligible for an
29 incentive that would otherwise belong to the company but only in
30 proportion to each ownership share of the company, up to twenty-five
31 thousand dollars per year. The company itself is not eligible for
32 incentives under this section.

33 (e) In the case of a utility-owned community solar project, each
34 ratepayer that contributes to the project is eligible for an incentive
35 in proportion to the contribution, up to five thousand dollars per
36 year.

37 (6) If requests for the investment cost recovery incentive exceed
38 the amount of funds available for credit to the participating light and

1 power business, (~~the incentive payments must be reduced~~
2 ~~proportionately~~)) no new applications may be approved for the light and
3 power business.

4 (7) The climate and rural energy development center at Washington
5 State University energy program may establish guidelines and standards
6 for technologies that are identified as Washington manufactured and
7 therefore most beneficial to the state's environment.

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

12 (9) No incentive may be paid under this section for kilowatt-hours
13 generated before July 1, 2005, or after June 30, 2020.

14 (10) A local government entity or an institution of higher
15 education that qualifies for the community solar incentive program has
16 an option to purchase a solar energy system located on its property
17 from the owner at fair market value after the expiration of the cost
18 recovery incentive program. The fair market value must take into
19 consideration the following:

20 (a) The energy production from the solar energy system over its
21 remaining useful life;

22 (b) The cost of the lease for the property that the solar energy
23 system is located; and

24 (c) Maintenance, insurance, and cost of removal of the solar energy
25 system if the host facility decides not to renew the lease.

26 **Sec. 3.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to read
27 as follows:

28 (1) A light and power business (~~shall be~~) is allowed a credit
29 against taxes due under this chapter in an amount equal to investment
30 cost recovery incentive payments made in any fiscal year under RCW
31 82.16.120. The credit (~~shall~~) must be taken in a form and manner as
32 required by the department. The credit under this section for the
33 fiscal year may not exceed one-half percent of the businesses' taxable
34 power sales due under RCW 82.16.020(1)(b) or one hundred thousand
35 dollars, whichever is greater. Incentive payments to participants in
36 a utility-owned community solar project as defined in RCW
37 82.16.110(2)(a)(ii) may only account for up to (~~twenty-five~~) fifteen

1 percent of the total allowable credit. Incentive payments to
2 participants in a company-owned community solar project as defined in
3 RCW 82.16.110(2)(a)(iii) may only account for up to (~~five~~) fifteen
4 percent of the total allowable credit. The credit may not exceed the
5 tax that would otherwise be due under this chapter. Refunds (~~shall~~)
6 may not be granted in the place of credits. Expenditures not used to
7 earn a credit in one fiscal year may not be used to earn a credit in
8 subsequent years.

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

18 (3) The right to earn tax credits under this section expires June
19 30, 2020. Credits may not be claimed after June 30, 2021.

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