
HOUSE BILL 2198

State of Washington

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By Representatives Morris, Eddy, McCoy, and Hudgins

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1 AN ACT Relating to modifying provisions concerning renewable energy
2 system cost recovery; and amending RCW 82.16.110 and 82.16.120.

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

4 **Sec. 1.** RCW 82.16.110 and 2011 c 179 s 2 are each amended to read
5 as follows:

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

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

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

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

1 businesses that is placed on the property owned by a cooperating local
2 governmental entity that is not in the light and power business or in
3 the gas distribution business;

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

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

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

19 (i) "Company" means an entity that is:
20 (A)(I) A limited liability company;
21 (II) A cooperative formed under chapter 23.86 RCW; or
22 (III) A mutual corporation or association formed under chapter
23 24.06 RCW; and

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

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

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

30 (3) "Customer-generated electricity" means:

31 (a) A community solar project (~~(e)~~);

32 (b) The alternating current electricity that is generated from a
33 renewable energy system located in Washington and installed on an
34 individual's, businesses', or local government's real property that is
35 also provided electricity generated by a light and power business; and

36 (c) The alternating current electricity that is injected into an
37 electrical transmission or distribution system from an energy storage
38 facility that stores energy from a renewable energy system located in

1 Washington and installed on individual's, businesses', or local
2 government's real property that is also provided electricity generated
3 by a light and power business. Except for community solar projects, a
4 system located on a leasehold interest does not qualify under this
5 definition. Except for utility-owned community solar projects,
6 "customer-generated electricity" does not include electricity generated
7 by a light and power business with greater than one thousand megawatt
8 hours of annual sales or a gas distribution business.

9 (4) "Economic development kilowatt-hour" means the actual kilowatt-
10 hour measurement of customer-generated electricity multiplied by the
11 appropriate economic development factor.

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

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

18 (7) "Renewable energy system" means a solar energy system, an
19 anaerobic digester as defined in RCW 82.08.900, ((~~or~~)) a wind generator
20 used for producing electricity, or a net metering system as defined in
21 RCW 80.60.010.

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

25 (9) "Solar inverter" means the device used to convert direct
26 current to alternating current in a solar energy system.

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

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

32 (12) "Energy storage facility" means a commercially available
33 technology that is capable of absorbing energy, storing it for a period
34 of time, and thereafter injecting the energy as alternating current
35 electricity to an electrical transmission or distribution system. An
36 energy storage facility may not exceed the greenhouse gas emissions
37 performance standard under RCW 80.80.040 when storing electricity from
38 a renewable energy system or injecting electricity from the energy

1 storage facility into an electrical transmission or distribution
2 system. An energy storage facility must have a meter separate from the
3 renewable energy system. An energy storage facility must have a
4 storage capacity of no less than five kilowatt hours.

5 (13) "Off-peak hours" means the hours after ten p.m. and before six
6 a.m.

7 (14) "Peak hours" means the hours after six a.m. and before ten
8 p.m.

9 **Sec. 2.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to read
10 as follows:

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

18 (b) In the case of a community solar project as defined in RCW
19 82.16.110(2)(a)(i), the administrator must apply for the investment
20 cost recovery incentive on behalf of each of the other owners.

21 (c) In the case of a community solar project as defined in RCW
22 82.16.110(2)(a)(iii), the company owning the community solar project
23 must apply for the investment cost recovery incentive on behalf of each
24 member of the company.

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

32 (i) The name and address of the applicant and location of the
33 renewable energy system.

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

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

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

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

8 (A) Any solar inverters and solar modules manufactured in
9 Washington state;

10 (B) A wind generator powered by blades manufactured in Washington
11 state;

12 (C) A solar inverter manufactured in Washington state;

13 (D) A solar module manufactured in Washington state;

14 (E) A stirling converter manufactured in Washington state; or

15 (F) Solar or wind equipment manufactured outside of Washington
16 state;

17 (iv) That the electricity from a renewable energy system or an
18 energy storage facility can be transformed or transmitted for entry
19 into or operation in parallel with electricity transmission and
20 distribution systems; and

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

23 (b) Within thirty days of receipt of the certification the
24 department of revenue must notify the applicant by mail, or
25 electronically as provided in RCW 82.32.135, whether the renewable
26 energy system qualifies for an incentive under this section. The
27 department may consult with the climate and rural energy development
28 center to determine eligibility for the incentive. System
29 certifications and the information contained therein are subject to
30 disclosure under RCW 82.32.330(3)(1).

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

36 (i) The name and address of the applicant and location of the
37 renewable energy system.

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

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

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

9 (iii) The date of the notification from the department of revenue
10 stating that the renewable energy system is eligible for the incentives
11 under this section; and

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

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

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

35 (ii) If it appears that the amount of incentive paid is less than
36 the correct amount of incentive payable the business may authorize
37 additional payment.

1 (4) Except for community solar projects, the investment cost
2 recovery incentive may be paid fifteen cents per economic development
3 kilowatt-hour unless requests exceed the amount authorized for credit
4 to the participating light and power business. For community solar
5 projects, the investment cost recovery incentive may be paid thirty
6 cents per economic development kilowatt-hour unless requests exceed the
7 amount authorized for credit to the participating light and power
8 business. For the purposes of this section, the rate paid for the
9 investment cost recovery incentive may be multiplied by the following
10 factors:

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

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

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

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

22 (e) For customer-generated electricity produced during off-peak
23 hours by a renewable energy system and stored by an energy storage
24 facility and injected from the facility into an electricity
25 transmission or distribution system during peak hours, two.

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

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

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

36 (d) Where the applicant is a company owning a community solar
37 project that has applied for an investment cost recovery incentive on
38 behalf of its members, each member of the company is eligible for an

1 incentive that would otherwise belong to the company but only in
2 proportion to each ownership share of the company, up to five thousand
3 dollars per year. The company itself is not eligible for incentives
4 under this section.

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

9 (6) If requests for the investment cost recovery incentive exceed
10 the amount of funds available for credit to the participating light and
11 power business, the incentive payments must be reduced proportionately.

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

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

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

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