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**SUBSTITUTE HOUSE BILL 1912**

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**State of Washington 64th Legislature 2015 2nd Special Session**

**By** House Technology & Economic Development (originally sponsored by Representatives Morris and Tarleton)

AN ACT Relating to distributed generation; amending RCW 82.16.120, 82.16.130, 19.86.170, 82.08.962, 82.08.963, 82.12.962, and 82.12.963; adding new sections to chapter 82.16 RCW; adding a new section to chapter 70.95N RCW; adding new sections to chapter 80.28 RCW; adding a new chapter to Title 19 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature finds that distributed generation, including renewable energy systems interconnected to the grid on utility customers' premises, is an important part of a state energy strategy to increase energy independence, promote economic development, and attain environmental benefits in the form of reduced air pollutant emissions. It is desirable to conduct a systematic evaluation of existing and emerging policies that promote cost-effective integration of distributed energy resources.

(2) The legislature recognizes that the smart grid of the future is likely to contain billions of intelligent devices, and the architecture to control or coordinate the operation of these devices at the distribution level of the grid in a reliable way is not yet certain. While our utilities have a good understanding of how their electric distribution system works today against extreme cold weather events in deterministic plans, little dynamic planning is conducted to shed light on what customers will be purchasing and at what rate new technologies such as electric vehicles, smart home energy management packages, and distributed generation may be adopted. Neighboring states like Hawaii have been put into a reactive planning and engineering mode by not understanding the relationship between the timeline of customer adoption of these technologies and how they will impact their electric distribution systems. Knowing this information is the keystone to keeping rates low through proactive dynamic smart planning for the smart grid that utilizes symbiotic opportunities like those between electric vehicles and distributed generation, and utilizing individual customers investments and choices in a harmonized way that defer more costly capital investments.

(3) The legislature seeks to contract with a third-party consultant, through a competitive procurement process, to obtain recommendations about policies, pilot projects, and tools that can increase situational viewability of distributed resources and cost-effectively integrate distributed resources into the distribution grid.

(4) It is the legislature's intent to extend incentives for renewable energy systems while obtaining recommendations from a third-party consultant who shall work with utilities, customers, and other stakeholders to develop better tools for utilities, particularly tools that give them better situational awareness that will keep electricity rates low for consumers as we transition to the digital smart grid of the future.

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

(1)(a) Any individual, business, local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, and ending June 30, 2020, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system.

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

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

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

(b) No person may submit for the first time the application for the incentive allowed under subsection (4) of this section after December 31, 2015.

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

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

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

(ii) The applicant's tax registration number;

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

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

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

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state;

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

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

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

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

((~~(b)~~)) (d) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are not confidential tax information under RCW 82.32.330 and are subject to disclosure ((~~under RCW 82.32.330(3)(l)~~)).

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

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

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

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

(ii) The applicant's tax registration number;

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

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

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system must notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are not confidential tax information under RCW 82.32.330 and are subject to disclosure ((~~under RCW 82.32.330(3)(l)~~)).

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

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

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

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

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

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

(d) For all other customer-generated electricity produced by wind, eight-tenths.

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

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

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

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

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

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

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

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

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

(10) Beginning January 1, 2016, program management, technical review, and tracking responsibilities of the department under this section are transferred to the Washington State University extension energy program. At the earliest date practicable, the department must transfer all records necessary for the administration of the remaining incentive payments due under this section to the Washington State University extension energy program.

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

(1)(a) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to ((~~investment cost recovery~~)) incentive payments made in any fiscal year under RCW 82.16.120 and section 5 of this act.

(b) A light and power business shall be allowed a one-time credit against taxes due under this chapter in an amount equal to the lesser of one hundred thousand dollars or the cost of purchasing software that: (i) Enables the light and power business to view the renewable energy systems for which the light and power business has made or will make incentive payments under RCW 82.16.120 and section 5 of this act; and (ii) is capable of electronically receiving data from the Washington State University extension energy program.

(2) The credits ((~~shall~~)) must be taken in a form and manner as required by the department. The credit under subsection (1)(a) of this section for the fiscal year may not exceed ((~~one-half~~)) one percent of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or ((~~one~~)) two hundred fifty thousand dollars, whichever is greater. ((~~Incentive payments to participants in a utility-owned community solar project as defined in RCW 82.16.110(2)(a)(ii) may only account for up to twenty-five percent of the total allowable credit. Incentive payments to participants in a company-owned community solar project as defined in RCW 82.16.110(2)(a)(iii) may only account for up to five percent of the total allowable credit.~~))

(3) The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

((~~(2)~~)) (4) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120 or, for payments made after January 1, 2016, that exceed the amount reported to the utility as payable by the Washington State University extension energy program as provided under section 5(17) of this act, the amount of tax against which credit was claimed for the excess payments ((~~shall be~~)) is immediately due and payable. The department ((~~shall~~)) must assess interest but not penalties on the taxes against which the credit was claimed. Interest ((~~shall~~)) must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and ((~~shall~~)) accrues until the taxes against which the credit was claimed are repaid.

((~~(3)~~)) (5) The amount of credit taken under this section is not confidential taxpayer information under RCW 82.32.330 and is subject to disclosure.

(6) The right to earn tax credits under this section expires June 30, ((~~2020~~)) 2030. Credits may not be claimed after June 30, ((~~2021~~)) 2031.

(7) The right to earn tax credits under subsection (1)(b) of this section expires December 31, 2015. Credits may not be claimed after December 31, 2016.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

The definitions in this section apply throughout this section and section 5 of this act unless the context clearly requires otherwise.

(1) "Certification" means the authorization issued by the Washington State University energy program establishing a person's eligibility to receive annual incentive payments from the person's utility for a term of ten years.

(2) "Commercial-scale system" means a renewable energy system with nameplate capacity greater than ten kilowatts.

(3) "Community solar project" means a solar energy system: (a) That has a direct current nameplate generating capacity that is no larger than five hundred kilowatts; (b) that has at least ten participants, each of whom is a utility customer that is a meter holder of the electric utility that provides service at the situs of the solar energy system; and (c) in which each participant is an owner or beneficial owner of a share not exceeding ten kilowatts.

(4) "Competitive electrical company" has the same meaning as in section 11 of this act.

(5) "Competitive electrical services" has the same meaning as in section 11 of this act.

(6) "Consumer contract" has the same meaning as in section 11 of this act.

(7) "Consumer-owned utility" has the same meaning as in RCW 19.280.020.

(8) "Customer-owner" means the owner of a residential-scale or commercial-scale renewable energy system, where such owner is not a utility and is not a competitive electrical company, and such owner either owns the premises where the renewable energy system is installed or occupies the premises.

(9) "Leased energy system" means a renewable energy system that is located in Washington and installed on a utility customer's premises, where the renewable energy system is:

(a) Owned by a competitive electrical company that has a consumer contract with a customer of the utility for competitive electrical services, as such terms are defined in section 11 of this act; or

(b) Owned by an electric utility and installed on the customer's side of the meter.

(10) "Person" means any person or legal entity.

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

(12) "Residential-scale system" means a renewable energy system with nameplate capacity of ten kilowatts or less.

(13) "Smart inverter" means an inverter capable of: (a) Enhancing the operating reliability of the grid by autonomously contributing to grid support during excursions from normal operating voltage and frequency system conditions; (b) providing dynamic volt-ampere reactive/real power support, voltage and frequency ride-through, ramp rate controls; and (c) accepting externally communicated commands and other functions.

(14) "Utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.

(15) "Washington State University energy program" means the Washington State University extension energy program.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1) Beginning January 1, 2016, the following may apply to the Washington State University energy program to receive a certification authorizing the utility serving the situs of a renewable energy system in the state of Washington to remit an annual production incentive for each kilowatt-hour of alternating current electricity generated by the renewable energy system:

(a) The customer-owner of a residential-scale or commercial-scale renewable energy system;

(b) In the case of a community solar project, a person or entity designated by all participants to be the project sponsor, who must apply on behalf of each of the other participants;

(c) In the case of a leased energy system owned by a utility, the utility, who must apply on behalf of its utility customer who hosts the leased energy system; and

(d) In the case of a leased energy system owned by a competitive electrical company, the utility customer who is hosting the system.

(2) No certification may be issued under this section for:

(a) A renewable energy system that was certified under RCW 82.16.120; or

(b) A renewable energy system served by a utility who has elected not to participate in the incentive program, as provided in subsection (3) of this section.

(3) A utility's participation in the incentive program provided in this section is voluntary. A utility electing to participate in the incentive program shall notify the Washington State University energy program of such election in writing by December 1st preceding the calendar year in which the utility will participate. Such notice shall also identify an annual incentive payment date and an annual net metering true-up date for program participants served by that utility that are aligned with that utility's billing system cycles and with customer meter systems.

(4) The utility may terminate its voluntary participation in the production incentive program by providing notice in writing to the Washington State University energy program to cease issuing new certifications for renewable energy systems that would be served by that utility.

(a) A utility's notice of termination of participation is effective after fifteen days, at which point the Washington State University energy program may not accept new applications for certification from renewable energy systems that would be served by that utility.

(b) Upon receiving a utility's notice of termination of participation in the incentive program, the Washington State University energy program must report on its web site that renewable energy systems that would be served by that utility are no longer eligible to receive new certification for a renewable energy system.

(c) A utility's termination of participation does not affect the utility's obligation to continue to make annual incentive payments to systems that have already been certified.

(d) The Washington State University energy program must continue to process and issue certifications for renewable energy systems that were received by the Washington State University energy program before the effective date of the notice of termination.

(e) A utility that has terminated participation in the program may resume participation upon filing notice with the Washington State University energy program.

(5) The Washington State University energy program may only certify a renewable energy system that meets the following eligibility criteria:

(a) The renewable energy system is connected to equipment capable of measuring the electricity production of the system and interconnects with the utility's system in a manner that allows the utility to measure and report electronically to the Washington State University energy program the total amount of electricity produced on the premises.

(b) If the renewable energy system is a solar energy system, the manufacturer, as the term is defined in section 9 of this act, is registered as a participant in the solar module recycling program described in section 9 of this act.

(6) No renewable energy system is eligible for certification to receive annual incentive payments provided under this section for more than the following amounts:

(a) Five thousand dollars for a system with under ten kilowatts nameplate capacity;

(b) Five thousand dollars per community solar project participant;

(c) Five hundred dollars per kilowatt or twenty-five thousand dollars, whichever is less, for any system other than a community solar project that is ten kilowatts or larger.

(7) No person may be a participant in more than one community solar project per meter for which the person is a meter holder.

(8) To obtain certification to receive the annual production incentive payments provided in this section for electricity produced by a renewable energy system, a person must submit to the Washington State University energy program:

(a) An application, which must include, but is not limited to, the following:

(i) An affidavit that the applicant has not previously received a certification from the department under RCW 82.16.120 entitling it to receive annual incentive payments for electricity generated by the renewable energy system;

(ii) A statement of the amount of annual electricity production expected from the renewable energy system and an estimate of the annual electrical demand of the premises;

(iii) The date that the renewable energy system received its final electrical inspection from the applicable local jurisdiction, as well as a copy of the permit;

(iv) Any information identified by the Washington State University energy program in consultation with the utilities and transportation commission, utilities, and the department of commerce as necessary for establishing a central platform that allows an electric utility to view solar energy systems receiving the production incentive as a fleet, such as panel global positioning system coordinates, tilt, shading, and azimuth; and

(v) Any other information the Washington State University energy program deems necessary in determining eligibility and incentive levels, administering the program, tracking progress toward achieving the limits on program participation established in RCW 82.16.130, or facilitating the review of the performance of the tax preferences by the joint legislative audit and review committee, as described in section 8 of this act.

(b) A copy of the signed uniform disclosure of essential terms provided by the installation company, competitive electrical service provider, or electric utility pursuant to section 6 of this act.

(9) Within thirty days of receipt of the application for certification, the Washington State University energy program must notify the applicant and the utility serving the situs of the system, by mail or electronically, of whether certification has been granted. The certification notice must state the rate to be paid per kilowatt-hour of electricity generated by the renewable energy system, as provided in subsection (11) of this section, subject to any applicable cap on total annual payment provided in subsection (6) of this section.

(10) Certification is valid for ten years and may not be retroactively changed due to evolutionary standards or interpretations by the Washington State University energy program, except it may be adjusted in response to later discovered errors in the original application or certification. Certification of a renewable energy system follows the system with the transfer of property if the owner of the renewable energy system notifies the Washington State University energy program of the transfer using procedures established by the Washington State University energy program.

(11) The Washington State University energy program must determine the total incentive rate for a new renewable energy system certification by adding to the base rate any applicable bonus rates.

(a) For new systems certified in calendar year 2016, the base incentive rate available under this section, payable for a period of ten years from the date that a system commences operation, per kilowatt-hour generated by the renewable energy system, is sixteen cents per kilowatt-hour for a residential-scale renewable energy system or community solar project and ten cents per kilowatt-hour for a commercial-scale renewable energy system.

(b) In 2016, the following bonus rates shall be available:

(i) Twelve cents per kilowatt-hour for electricity generated by a renewable energy system with solar modules made in Washington or with a wind turbine or tower that is made in Washington;

(ii) Five cents per kilowatt-hour for electricity generated by a renewable energy system that includes a smart inverter;

(iii) Five cents per kilowatt-hour for electricity generated by a renewable energy system that is participating in a pilot project identified by the third-party consultant in the "smart plan for the smart grid" report to the legislature provided in section 7(2)(b) of this act; and

(iv) Five cents per kilowatt-hour for a community solar project, where the owner files an affidavit with the Washington State University energy program attesting that the entity is unable to benefit from the federal investment tax credit provided in section 48 of the internal revenue code, and the federal residential renewable energy tax credit provided in section 25D of the internal revenue code and has not contracted with and will not contract with a third party capable of benefiting from such incentives for competitive electrical services related to the community solar project.

(c) For new system certifications after calendar year 2016, the base rates and the bonus rates for made in Washington systems and smart inverters must decline as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Calendar year of system certification | Base rate - residential and community solar projects | Base rate - commercial | Made in Washington bonus | Inverter bonus |
| 2016 | $0.160 | $0.100 | $0.120 | $0.050 |
| 2017 | $0.135 | $0.085 | $0.095 | $0.040 |
| 2018 | $0.110 | $0.070 | $0.070 | $0.025 |
| 2019 | $0.085 | $0.055 | $0.045 | $0.010 |
| 2020 | $0.060 | $0.040 | $0.020 | $0.000 |

(d) For purposes of this section, the Washington State University energy program must define when a renewable energy system commences operation.

(12) The Washington State University energy program must cease to issue new certifications:

(a) For leased energy systems in any fiscal year that twenty-five percent of available funds for credit under RCW 82.16.130 have been allocated to leased energy systems;

(b) For community solar projects in any fiscal year that twenty-five percent of available funds for credit under RCW 82.16.130 have been allocated to community solar projects; and

(c) For any additional renewable energy system served by a utility if certification is likely to result in incentive payments by that utility exceeding the utility's total public utility tax liability.

(13) If the Washington State University energy program ceases issuing new certifications during a fiscal year or biennium as provided in subsection (12) of this section, in the following fiscal year or biennium, or when additional funds are available for credit such that the thresholds described in subsection (12) of this section are no longer exceeded, the Washington State University energy program shall resume issuing new certifications using a lottery or other method of awarding certifications that results in equitable and orderly allocation of benefits to applicants.

(14) In order to begin to receive annual incentive payments, a person who has been issued a certification for the incentive as provided in subsection (9) of this section must submit the certification to the utility serving the situs of the system.

(15) The Washington State University energy program must establish a list of equipment that is eligible for the bonus rates described in subsection (11) of this section. The Washington State University energy program shall, in consultation with the department of commerce, develop technical specifications and guidelines to ensure consistent and predictable determination of eligibility. A solar module is made in Washington for purposes of receiving the bonus rate only if the lamination of the module takes place in Washington. A wind turbine is made in Washington only if it is powered by a turbine or built with a tower manufactured in Washington.

(16) The manufacturer of a renewable energy system component subject to a bonus rate under subsection (11) of this section may apply to the Washington State University energy program to receive a determination of eligibility for such bonus rates. The Washington State University energy program must publish a list of components that have been certified as eligible for such bonus rates. The Washington State University energy program may determine smart inverter eligibility by reference to standards established by the public utilities commissions in the western electricity coordinating council region as in effect on the effective date of this section. The Washington State University energy program may assess an equipment certification fee to recover its costs.

(17) Annually, the applicant or the utility, at the utility's option, must electronically report to the Washington State University energy program the amount of gross kilowatt-hours generated by each renewable energy system since the prior annual report.

(18)(a) The Washington State University energy program must calculate for the year and provide to the utility the amount of the incentive payment due to each participant and the total amount of credit against tax due available to the utility under RCW 82.16.130 that has been allocated as annual incentive payments. Upon notice to the Washington State University energy program, a utility may opt to directly perform this calculation and provide its results to the Washington State University energy program.

(b) No person is eligible for incentive payments under this section for electricity generated in excess of the estimated kilowatt-hours to be consumed annually at the metered location, except in the case of a community solar project.

(c) If the Washington State University energy program identifies an abnormal production claim, it must notify the utility and the applicant and recommend withholding payment until the applicant has demonstrated that the production claim is accurate and valid.

(19) Within sixty days of receipt of the information required under subsection (18)(a) of this section from the Washington State University energy program, the utility must issue the incentive payment.

(20) The Washington State University energy program must post on its web site and update quarterly a report, by utility, of:

(a) The certification limits for various system types and sizes established under subsection (12) of this section; and

(b) An estimate of the amount of credit that has not yet been allocated for incentive payments under each utility's credit limit and remains available for new renewable energy system certifications.

(21) Persons receiving incentive payments under this section must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive payments applied for and received. The Washington State University energy program may direct a utility to cease issuing incentive payments if the records are not made available for examination upon request. A utility receiving such a directive is not liable to the recipient for any incentive payments or other damages for ceasing payments pursuant to the directive.

(22) The nonpower attributes of the renewable energy system belong to the customer who hosts the system or, in the case of a community solar project, the participant, unless, in the case of a utility-owned system, the contract clearly specifies that the attributes will be retained by the utility.

(23) All lists, technical specifications, determinations, and guidelines developed under this section must be made publicly available online.

(24) No certification may be issued under this section after June 30, 2020.

(25) The Washington State University energy program may establish fees to recover all or a portion of its costs in administering the incentive program. At a minimum, a one-time fee must be assessed to each participant to recover any ongoing costs incurred for tracking the power production from certified systems, including any software costs incurred in collecting the information described in subsection (8)(a)(iv) of this section. This fee must be assessed in direct proportion to the amount of incentive payments that a participant is certified to receive, and no participant may be assessed a fee that exceeds ten percent of the cumulative incentive payments certified under this section and RCW 82.16.120.

(26) The Washington State University energy program may, through a public process, develop any program requirements and policies necessary for the administration of this section, RCW 82.16.120, and section 6 of this act. The department of revenue is authorized, in consultation with the Washington State University energy program, to adopt any rules necessary for administration of the program.

(27) Applications, certifications, requests for incentive payments under this section, and the information contained therein are not deemed tax information under RCW 82.32.330 and are subject to disclosure.

NEW SECTION. **Sec.**  (1) Any installation company, competitive electric service provider, or electric utility providing a renewable energy system eligible for an incentive payment under section 5 of this act must provide the entity applying under section 5(1) of this act a uniform statement of essential terms. The uniform statement must be in a format established by the Washington State University extension energy program, which must consult with the attorney general, the utilities and transportation commission, and representatives of utilities in establishing the uniform statement.

(2) The uniform statement must be provided prior to execution of the consumer contract and must be signed by the customer.

(3) The uniform statement must include information regarding the respective rights and responsibilities of all parties involved, and include such terms as reasonably necessary for the customer to understand and make an informed decision to enter the consumer contract. Such information must include the following:

(a) Information about the system's performance, such as a monthly or annual production performance guarantee or range of performance and system size and capacity;

(b) Customer costs, including the amount of any down payment required, periodic payments, or cost per kilowatt-hour of electricity produced, and any built-in escalation rates or schedule of payment amounts;

(c) Length of contract term and total expenditure or range of expenditures, or the effective annual interest rate over the term of the agreement; and

(d) The customer's rights and responsibilities when selling a renewable energy system as part of a sale of real property, including responsibility for system removal costs, disposal of the system, and any remaining periodic payments.

NEW SECTION. **Sec.**  (1) The office of financial management, in consultation with the joint committee on energy supply and energy conservation, must competitively select an independent consultant to conduct a two phase "smart plan for the smart grid" study. The consultant must have experience working on advanced grid infrastructure demonstration projects or otherwise demonstrate familiarity with utility applications, technology, customer engagement strategies, and associated analytical tools that facilitate situational awareness in the distribution grid for purposes of increasing the efficiency, reliability, and sustainability of the distribution grid. Prior to selection, the office of financial management must consult with investor-owned utilities, consumer-owned utility stakeholders, and the members of the joint committee on energy supply and energy conservation.

(2) The consultant must facilitate a dialogue with stakeholders, for example by convening a blue ribbon panel, to obtain input for both phases of the study. Stakeholders must include utility representatives, state and local governmental agencies, consumer advocates, industry leaders, and academic experts.

(a) In the first phase, the consultant must review distributed energy resources laws and policies in Washington, the status of existing and proposed efforts of state utilities to ensure cost-effective integration of such resources, and best practices emerging nationally and internationally to plan for and account for the costs and benefits of distributed energy resource integration.

(b) The consultant must issue a report to the legislature and the governor by December 18, 2016, identifying pilot projects for maximizing cost-effective integration of distributed energy resources in Washington, identifying potential sources of funding for such pilot projects, and recommending tools that can assist utilities in obtaining a more dynamic and situational view of consumer activities on the distribution grid and in managing the effects of those activities.

(c) In the second phase, prior to December 18, 2017, the consultant shall provide a report to the legislature and the governor reviewing any pilot projects that have been implemented and providing recommendations of policies and incentives that could best facilitate cost-effective integration of distributed energy resources by Washington utilities.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1) This section is the tax preference performance statement for the tax preference and incentives created under RCW 82.16.130 and section 5 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference and incentives. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment or for certification under section 14 of this act.

(2) The legislature categorizes the tax preference and incentive created in section 5 of this act as intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a), and to create or retain jobs, as indicated in RCW 82.32.808(2)(c).

(3) The legislature's public policy objectives are:

(a) To increase and improve utilization of clean energy technology in Washington; and

(b) To increase the number of jobs in and enhance the sustainability of the clean energy technology industry in Washington.

(4) It is the legislature's intent to provide the incentives in section 5 of this act and RCW 82.16.130 in order to reduce the costs associated with installing and operating clean energy systems by persons or entities receiving the incentive and to reduce the costs for providing those incentives by entities receiving a credit under RCW 82.16.130, thereby increasing the ability for clean energy technology firms to access the energy market and expand their operations in Washington and increasing the number of jobs in the clean energy technology industry in Washington.

(5) As part of its 2019 tax preference reviews conducted under chapter 43.136 RCW, the joint legislative audit and review committee must review the tax preferences and incentives in section 5 of this act and RCW 82.16.130. The legislature intends for the legislative auditor to determine that the incentive has achieved its desired outcome and no extension of the tax preference is necessary if the following performance milestones are met:

(a) Installation of one hundred sixty-five megawatts of solar photovoltaic capacity in Washington by 2020;

(b) Improved cost-effectiveness, as measured by a shorter payback period for a consumer who installs a residential solar energy system in Washington in 2019, taking into account applicable state and federal incentives in 2019, as compared to the payback period in 2014, and taking into account applicable state and federal incentives in effect in 2014;

(c) Growth of solar-related employment, as evidenced by an increase in the total number and per capita rate of solar energy-related jobs in Washington, as reported by a relevant trade association in the state and achievement of an improved national ranking for solar energy‑related employment and per capita solar energy-related employment, as reported in a nationally recognized report;

(d) Creation of a system for capturing data about installed solar systems that can be transferred to utilities, so that utilities can see solar systems as a fleet and manage them with other generation resources; and

(e) Creation and propagation of tools for utilities that give them greater situational viewability of what customers' capital investments are being made behind the electricity meter and better understanding of how such investments might fit together efficiently into a ten-year distributed energy resource plan.

(6) The legislative auditor must include in its 2019 report to the legislature an overview of market conditions for solar energy system installation in the state and an analysis of how expiration of the tax preference provided in section 5 of this act and RCW 82.16.130 may affect the continued development of a sustainable solar industry in Washington. The legislative auditor should consider the levelized cost of solar energy systems installed in 2019, the payback period for such systems for a person or entity installing the system, with or without the solar production incentive, and the average contribution of the state of Washington to the total levelized cost of a solar energy system for a person benefiting from the tax preference, as compared to the average contribution of other states with comparable insolation levels that provide solar production tax incentives.

(7) In order to obtain the data necessary to perform the review, the joint legislative audit and review committee may refer to the data collected by the Washington State University extension energy program and the department under the application and certification process established in section 5 of this act, and may obtain employment data from the employment security department.

(8) The Washington State University extension energy program is encouraged to collect, through the application process, data from persons receiving the incentive payments created in section 5 of this act, as necessary, and may collect data from other interested persons to report on progress toward achieving the performance milestones listed in subsection (5) of this section.

(9) All recipients of tax credits or incentive payments awarded under this chapter must provide any data requested by the Washington State University extension energy program or the joint legislative audit and review committee. Failure to comply may result in the loss of a tax credit award or incentive payment in the following year.

NEW SECTION. **Sec.**  A new section is added to chapter 70.95N RCW to read as follows:

(1) The legislature finds that a convenient, safe, and environmentally sound system for the decommissioning and recycling of solar modules must be established. The legislature further finds that the responsibility for this system must be shared among all stakeholders, with manufacturers financing the decommissioning and recycling system.

(2) The department shall establish a process for stakeholders to make recommendations for a program for the decommissioning and recycling of solar modules and the financing of such activities by an authority on behalf of participating manufacturers. Such a program may be modeled on electronic product recycling and manufacturer participation through the Washington materials management and financing authority created under RCW 70.95N.280.

(3) In order for a solar energy system to be eligible for incentive payments under section 5 of this act, at least one manufacturer of the solar module must be registered with the department as a participant in the solar module recycling program. The department must establish and implement a registration process by December 1, 2015.

(4) Registration requirements in calendar year 2015 are limited to paying any fee established by the department under RCW 70.95N.230 to cover the costs of administering this section.

(5) Prior to December 1, 2015, the department must complete the stakeholder process and report recommendations to the legislature and the governor for how a solar module recycling program should be structured and enforced.

(6) For purposes of this section, "manufacturer" means any person, in business or no longer in business but having a successor in interest, who, irrespective of the selling technique used, including by means of distance or remote sale:

(a) Manufactures or has manufactured a solar module under its own brand names for sale in or into this state;

(b) Assembles or has assembled a solar module that uses parts manufactured by others for sale in or into this state under the assembler's brand names;

(c) Resells or has resold in or into this state under its own brand names a solar module produced by other suppliers, including retail establishments that sell solar modules under their own brand names;

(d) Manufactures or manufactured a cobranded solar module product for sale in or into this state that carries the name of both the manufacturer and a retailer;

(e) Imports or has imported a solar module into the United States that is sold in or into this state. However, if the imported solar module is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under (a) through (d) of this subsection, that person is the manufacturer;

(f) Sells at retail a solar module acquired from an importer that is the manufacturer as described in (e) of this subsection, and elects to register in lieu of the importer as the manufacturer for those products; or

(g) Elects to assume the responsibility and register in lieu of a manufacturer as defined under this section.

NEW SECTION. **Sec.**  (1) It is the intent of the legislature to provide consumers greater access to renewable energy systems owned by third parties and utilities but provided to the consumer through a lease, power purchase agreement, or other contractual arrangement. Such access will help minimize the upfront costs of distributed generation, providing further opportunities for consumers to access the benefits of these systems.

(2) It is the intent of the legislature to provide for consumer protection of customers accessing renewable energy systems through a consumer contract, and to recognize and encourage electric utility efforts in being early adopters of programs that promote customers' energy independence.

(3) The legislature finds that access to distributed renewable energy systems installed on residential, commercial, and governmental real property facilitates energy independence by consumers.

(4) The legislature recognizes the importance of ensuring public safety and consumer protection with an appropriate level of regulation that still allows a competitive marketplace to develop, and for this reason the legislature confers authority to the Washington utilities and transportation commission to regulate as "competitive electrical companies" private third-party vendors who provide renewable energy systems directly to consumers through a consumer contract and affiliates of investor-owned utilities who invest company dollars to make these systems more widely accessible.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter and sections 16 through 21 of this act unless the context clearly requires otherwise.

(1)(a) Except as specified in (b) of this subsection, "competitive electrical company" means an electrical company that owns a renewable energy system on property controlled by a customer and enters into an agreement with a customer to provide competitive electrical services.

(b) The following entities are not competitive electrical companies:

(i) Commercial lending institutions that are regulated by the department of financial institutions and provide loans for the purchase of renewable energy systems;

(ii) Companies engaged in retail sales of renewable energy equipment that are not otherwise engaged in business as a competitive electrical company; and

(iii) Electric utilities offering competitive electrical services to their customers or members in conjunction with other utility services.

(2) "Competitive electrical services" means the provision of electricity generated by a renewable energy system to the customer and may include other services associated with the use of a renewable energy system under a lease, power purchase agreement, loan, or other financial transaction. Such other services may include system monitoring and maintenance, warranty provisions, performance guarantees, and customer service.

(3) "Consumer contract" means the lease, power purchase agreement, loan, or other financial agreement between a competitive electrical company and a customer, by which the customer obtains a beneficial interest in, other than direct ownership of, a renewable energy system installed on the customer's side of the meter on property controlled by the customer.

(4) "Electric utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.

(5) "Leased energy program" means a program developed by an electric utility to provide customers of the utility access to renewable energy systems through a consumer contract.

(6) "Leased energy system" means a renewable energy system that is located in Washington and installed on a utility customer's premises, where the renewable energy system is:

(a) Owned by a competitive electrical company that has a consumer contract with a customer of an electric utility for competitive electrical services; or

(b) Owned by an electric utility that has a contract with a customer of that electric utility to provide competitive electrical services.

(7) "Renewable energy system" means a net metering system, as defined in RCW 80.60.010, that generates renewable energy, as defined in RCW 80.60.010.

(8) "Third-party vendor" means an entity other than an electric utility that provides a renewable energy system to electric utility customers through a consumer contract.

NEW SECTION. **Sec.**  (1) Except as provided in subsection (3) of this section, an electric utility is not liable for any harm, economic or otherwise, caused to a customer or competitive electrical company by disconnection of a leased energy system owned by the competitive electrical company or owned by another electric utility.

(2) The reasons for such disconnection may include, but are not limited to, safety or reliability purposes, faulty equipment, a customer's nonpayment of an electric bill, or violation by the customer or competitive electrical company of the interconnection agreement between the electric utility and the customer.

(3) An electric utility may not develop or apply standards for disconnection of a renewable energy system that discriminate on the basis of whether the system is owned by the utility, the customer, or a competitive electrical company.

NEW SECTION. **Sec.**  Electric utilities and competitive electrical service companies are encouraged to offer to customers the option to purchase the renewable energy system at the end of the consumer contract's term.

NEW SECTION. **Sec.**  (1)(a) In the event that real property subject to a renewable energy system consumer contract is sold, the remainder of the consumer contract must be assumed by the buyer if a memorandum has been recorded reflecting the essential terms of the consumer contract, unless the seller and buyer agree otherwise. The transfer of ownership of real property subject to a consumer contract does not trigger a requirement to recertify a renewable energy system previously certified for incentives under chapter 82.16 RCW. If the buyer of such property assumes a consumer contract for a renewable energy system previously certified for these incentives, the buyer continues to qualify for all applicable incentives as originally certified under chapter 82.16 RCW and any other benefits of the consumer contract, as long as the buyer enters a new interconnection agreement with the utility. The utility may not, as a condition of entering into a new interconnection agreement with the person who has assumed the consumer contract, require installation of new equipment during the term that the system has received certification for the incentives provided in section 5 of this act.

(b) Thirty days prior to closing, the seller of property subject to a consumer contract shall notify any utility and competitive electrical company affected by the consumer contract that the buyer is assuming the contract, or that the buyer and seller have agreed otherwise as provided in (a) of this subsection.

(c) Within seven days of the seller's notice, the utility and competitive electrical company shall provide the documentation of the procedures necessary for assumption of the consumer contract by the buyer, or, in the event that the buyer is not assuming the contract, for termination of the consumer contract and removal of the renewable energy system.

(d) At the end of the consumer contract term or in the event of any earlier termination of the consumer contract, the owner of the renewable energy system, whether it is a utility or competitive electrical company, is responsible for the removal of the renewable energy system from the property and may recover the cost thereof only as specified in the consumer contract and noted in the recorded memorandum. The owner of the renewable energy system may only obtain damages for the premature termination of a consumer contract to the extent that the amount of the damages is specified as liquidated damages in the consumer contract.

(e) Renewable energy system consumer contracts may not grant utilities or competitive electrical companies any authority to approve or disapprove of the transfer of real property associated with such a consumer contract.

(2)(a) The owner of a renewable energy system shall guarantee sufficient funds to properly dispose of the system at the end of the consumer contract.

(b) The owner of a renewable energy system must remove the renewable energy system from the property within twenty-one days of a written request of the property owner.

(c) The owner of a renewable energy system is responsible for identifying hazardous and commercial valuable materials contained in the renewable energy system and how those materials will be properly disposed of or reclaimed. The owner must provide this information to the utilities and transportation commission upon request of the commission.

NEW SECTION. **Sec.**  (1) Except as provided in subsection (2) of this section, the utilities and transportation commission shall publish, without disclosing proprietary information, a list of financing models for leased energy systems being offered to utility customers by investor-owned utilities or competitive electrical companies.

(2) If a consumer-owned utility opts to provide a leased energy program, or contracts with a competitive electrical company to offer a leased energy program, the governing board of the consumer-owned utility shall publish, without disclosing proprietary information, a list of financing models being offered by the consumer-owned utility or by competitive electrical companies that the consumer-owned utility has contracted with to provide services to the consumer-owned utility's customers as part of a leased energy program.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) The legislature finds that:

(a) Competitive electrical companies are electrical companies as defined in this title and are subject to the jurisdiction of the commission.

(b) Traditional rate of return, rate base regulation of competitive electrical companies providing leasing and installation of renewable energy systems does not provide the most efficient and effective means of achieving the public policy goals of this state as declared in RCW 80.28.024, 80.28.074, this section, and section 8 of this act. These goals include promoting the use of renewable energy resources, maintaining and advancing the efficiency and availability of electric services, and ensuring that customers pay only reasonable charges.

(c) The provision of competitive electrical services is affected with the public interest and requires the oversight of the commission in order to protect consumers. Nothing in this act precludes the office of the attorney general from exercising its statutory authority under chapter 19.86 RCW.

(2) The definitions in section 11 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) No third-party vendor, including an affiliate of an electric utility, may engage in business as a competitive electrical company in this state, except in accordance with the provisions of this chapter. Engaging in business as a competitive electrical company includes advertising, soliciting, offering, or entering into an agreement to own a renewable energy system and provide competitive electrical services on property owned or controlled by a customer.

(2) Competitive electrical companies must register with the commission. The registration must be on a form prescribed by the commission, contain information the commission may by rule require, and must include at a minimum: The name and address of the company; the name and address of the company's registered agent, if any; the company's universal business identification number; the name, address, and title of each officer or director; if the company is publicly traded, the company's most recent annual report filed with the United States securities and exchange commission; if the company is not publicly traded, the company's current balance sheet; the company's latest annual report, if any; and a description of the services the company offers or intends to offer.

(3) The commission may reject an application that does not contain all information required by this section or by commission rule.

(4) The commission must take action to approve or deny any application for registration within thirty days after receiving the application. The commission may approve such application with or without a hearing. The commission may deny such application after a hearing when it finds that the company or its registered agent has violated this chapter or the rules of the commission, or the company or its registered agent has been found by a court or governmental agency to have violated the laws of a state or the United States.

(5) The commission may charge competitive electrical companies a one-time application fee to recover the cost of processing applications for registration under this section.

(6) The commission shall adopt rules that describe the manner by which it will register competitive electrical companies, ensure that consumer contracts comply with commission rules and section 18 of this act, and establish the companies' responsibilities for responding to customer complaints and disputes. Pursuant to RCW 80.04.080, 80.24.010, and 80.24.020, the commission shall adopt annual reporting requirements, and the amount of application and regulatory fees applicable to competitive electrical companies.

(7) The commission may suspend or revoke a registration upon complaint by any interested party, or upon the commission's own motion after notice and opportunity for hearing, when it finds that the registered competitive electrical company or its agent has violated this chapter, the rules of the commission, or the company or its registered agent has been found by a court or governmental agency to have violated the laws of a state or the United States.

(8) The definitions in section 11 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) Competitive electrical companies are subject to consumer protection regulation applicable to electrical companies under this title, and as described in this act. Such regulation shall be limited to registration, disclosure of terms of services, and investigation and resolution of complaints and disputes. The commission may issue penalties for violations of this chapter or commission rules, as authorized in chapter 80.04 RCW. Competitive electrical companies are not subject to the regulatory requirements concerning rate regulation and furnishing of service for electrical companies in this title, including but not limited to RCW 80.28.010, 80.28.020, 80.28.025, 80.28.050, 80.28.060, 80.28.065, 80.28.068, 80.28.075, 80.28.080, 80.28.090, 80.28.100, 80.28.110, and 80.28.120. Competition among competitive electrical companies serves the same purposes as economic regulation. The commission may waive any regulatory requirement under this title for competitive electrical companies when it determines that competition will serve the same purposes as public interest regulation.

(2) Competitive electrical companies may not engage in unfair or deceptive business practices in the provision of competitive electrical company services. A competitive electrical company shall at a minimum:

(a) Keep its customer records available for inspection by the commission for five years;

(b) Cooperate with commission investigations of customer complaints;

(c) Ensure that its consumer contracts meet the disclosure requirements established by commission rules. Consumer contracts must clearly state:

(i) The payment schedule and an estimate of the amount of periodic payments;

(ii) Estimates of the total contract payments in the first year, the percentage contract payments increase each year, and the total amount the customer will pay over time;

(iii) Any potential fees or penalties for late payments;

(iv) A concise list of customer obligations beyond the monthly payments;

(v) An estimate of annual energy production for the term of the contract;

(vi) A description of warranties provided;

(vii) The manufacturer and model of all substantial system components;

(viii) If applicable, a reference to the source of any information concerning historical or projected electricity prices;

(ix) A clear statement that the customer is responsible for making a regular payment to his or her electric utility at billed rates in addition to a regular payment to the competitive electrical company;

(x) A clear statement that the customer is responsible for entering into necessary interconnection and net metering agreements with his or her electric utility;

(xi) A description of a customer's options upon sale of his or her property;

(xii) The amount of operations and maintenance costs charged in the agreement per month and amount of such costs being paid towards capital costs of systems; and

(xiii) The length of time it may take to make a repair necessitated by failure of the installation or equipment.

(3) Any consumer contract for competitive electrical services that includes terms limiting the customer's right to obtain a remedy by accessing a court or the customer's right to enter into class litigation must provide these terms on a separate contract page in bold and conspicuous print and require the customer to separately sign acknowledgment of the terms.

(4) A competitive electrical company may not include in a consumer contract a provision that limits a consumer's ability to seek damages. A provision limiting damages is void as against public policy.

(5) Nothing in this section removes a competitive electrical company's responsibility to ensure that its consumer contracts also meet the requirements of applicable state and federal laws.

(6) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section, any portion of this section, or any administrative rule created pursuant to this section and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population.

(7) The definitions in section 11 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) Each competitive electrical company and each electrical company shall provide to the commission, within thirty days of its issuance, a copy of every judgment or arbitration decision in an action alleging a violation of the consumer protections afforded by sections 10 through 15 of this act or chapter 19.86 RCW.

(2) Each consumer-owned utility shall provide to the attorney general, within thirty days of its issuance, a copy of every judgment or arbitration decision in an action alleging a violation of the consumer protections afforded by sections 10 through 15 of this act or chapter 19.86 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

In addition to the penalties provided in this title, a violation by a competitive electrical company of sections 16 through 19 of this act constitutes an unfair or deceptive act in trade or commerce in violation of chapter 19.86 RCW, the consumer protection act. Acts in violation of this act are not reasonable in relation to the development and preservation of business, and constitute matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. The commission may consult with the office of the attorney general regarding the administration and enforcement of this chapter as it pertains to competitive electrical companies.

**Sec.**  RCW 19.86.170 and 1977 c 49 s 1 are each amended to read as follows:

Nothing in this chapter shall apply to actions or transactions otherwise permitted, prohibited or regulated under laws administered by the insurance commissioner of this state, the Washington utilities and transportation commission, the federal power commission or actions or transactions permitted by any other regulatory body or officer acting under statutory authority of this state or the United States: PROVIDED, HOWEVER, That actions and transactions prohibited or regulated under the laws administered by the insurance commissioner shall be subject to the provisions of RCW 19.86.020 and all sections of chapter 216, Laws of 1961 and chapter 19.86 RCW which provide for the implementation and enforcement of RCW 19.86.020 except that nothing required or permitted to be done pursuant to Title 48 RCW shall be construed to be a violation of RCW 19.86.020: PROVIDED, FURTHER, That actions or transactions specifically permitted within the statutory authority granted to any regulatory board or commission established within Title 18 RCW shall not be construed to be a violation of chapter 19.86 RCW: PROVIDED, FURTHER, That this chapter shall apply to actions and transactions in connection with the disposition of human remains.

RCW 9A.20.010(2) shall not be applicable to the terms of this chapter and no penalty or remedy shall result from a violation of this chapter except as expressly provided herein.

For the purposes of this section, actions or transactions of competitive electrical companies, as defined in section 11 of this act, are not deemed otherwise permitted, prohibited, or regulated by the utilities and transportation commission.

**Sec.**  RCW 82.08.962 and 2013 2nd sp.s. c 13 s 1502 are each amended to read as follows:

(1)(a) Except as provided in RCW 82.08.963, purchasers who have paid the tax imposed by RCW 82.08.020 on machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, are eligible for an exemption as provided in this section, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts of electricity.

(b) Beginning on July 1, 2009, through June 30, 2011, the tax levied by RCW 82.08.020 does not apply to the sale of machinery and equipment described in (a) of this subsection that are used directly in generating electricity or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(c) Beginning on July 1, 2011, through January 1, 2020, the amount of the exemption under this subsection (1) is equal to seventy-five percent of the state and local sales tax paid. The purchaser is eligible for an exemption under this subsection (1)(c) in the form of a remittance.

(2) For purposes of this section and RCW 82.12.962, the following definitions apply:

(a) "Biomass energy" includes: (i) By-products of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(b) "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c) "Landfill gas" means biomass fuel, of the type qualified for federal tax credits under Title 26 U.S.C. Sec. 29 of the federal internal revenue code, collected from a "landfill" as defined under RCW 70.95.030.

(d)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas as the principal source of power.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(3)(a) Machinery and equipment is "used directly" in generating electricity by wind energy, solar energy, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas power if it provides any part of the process that captures the energy of the wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(b) Machinery and equipment is "used directly" in generating electricity by fuel cells if it provides any part of the process that captures the energy of the fuel, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(4)(a) A purchaser claiming an exemption in the form of a remittance under subsection (1)(c) of this section must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(b) The department must determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter.

(5) The exemption provided by this section expires December 31, 2015, as it applies to: (a) Machinery and equipment that is used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts of electricity; or (b) sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(6) This section expires January 1, 2020.

**Sec.**  RCW 82.08.963 and 2013 2nd sp.s. c 13 s 1602 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of machinery and equipment used directly in generating electricity or producing thermal heat using solar energy, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not more than ten kilowatts of electricity or producing not more than three million British thermal units per day and provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files. For sellers who electronically file their taxes, the department must provide a separate tax reporting line for exemption amounts claimed by a buyer under this section.

(2) For purposes of this section and RCW 82.12.963:

(a) "Machinery and equipment" means industrial fixtures, devices, and support facilities that are integral and necessary to the generation of electricity or production and use of thermal heat using solar energy;

(b) "Machinery and equipment" does not include: (i) Hand-powered tools; (ii) property with a useful life of less than one year; (iii) repair parts required to restore machinery and equipment to normal working order; (iv) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (v) buildings; or (vi) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building;

(c) Machinery and equipment is "used directly" in generating electricity with solar energy if it provides any part of the process that captures the energy of the sun, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems; and

(d) Machinery and equipment is "used directly" in producing thermal heat with solar energy if it uses a solar collector or a solar hot water system that (i) meets the certification standards for solar collectors and solar hot water systems developed by the solar rating and certification corporation; or (ii) is determined by the Washington State University extension whether a solar collector or solar hot water system is an equivalent collector or system.

(3) The exemption provided by this section for the sales of machinery and equipment that is used directly in the generation of electricity using solar energy, or for sales of or charges made for labor or services rendered in respect to installing such machinery and equipment, expires December 31, 2015.

(4) This section expires June 30, 2018.

**Sec.**  RCW 82.12.962 and 2013 2nd sp.s. c 13 s 1505 are each amended to read as follows:

(1)(a) Except as provided in RCW 82.12.963, consumers who have paid the tax imposed by RCW 82.12.020 on machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, are eligible for an exemption as provided in this section, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts of electricity.

(b) Beginning on July 1, 2009, through June 30, 2011, the provisions of this chapter do not apply in respect to the use of machinery and equipment described in (a) of this subsection that are used directly in generating electricity or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(c) Beginning on July 1, 2011, through January 1, 2020, the amount of the exemption under this subsection (1) is equal to seventy-five percent of the state and local sales tax paid. The consumer is eligible for an exemption under this subsection (1)(c) in the form of a remittance.

(2)(a) A person claiming an exemption in the form of a remittance under subsection (1)(c) of this section must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The consumer may then apply to the department for remittance in a form and manner prescribed by the department. A consumer may not apply for a remittance under this section more frequently than once per quarter. The consumer must specify the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The consumer must retain, in adequate detail, records to enable the department to determine whether the consumer is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(b) The department must determine eligibility under this section based on the information provided by the consumer, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying consumers who submitted applications during the previous quarter.

(3) Purchases exempt under RCW 82.08.962 are also exempt from the tax imposed under RCW 82.12.020.

(4) The definitions in RCW 82.08.962 apply to this section.

(5) The exemption provided in subsection (1) of this section does not apply:

(a) To machinery and equipment used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts of electricity, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after December 31, 2015; and

(b) To any other machinery and equipment described in subsection (1)(a) of this section, or to sales of or charges made for labor and services rendered in respect to installing such machinery or equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after December 31, 2019.

(6) This section expires January 1, 2020.

**Sec.**  RCW 82.12.963 and 2013 2nd sp.s. c 13 s 1603 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to machinery and equipment used directly in generating not more than ten kilowatts of electricity or producing not more than three million British thermal units per day using solar energy, or to the use of labor and services rendered in respect to installing such machinery and equipment.

(2) The definitions in RCW 82.08.963 apply to this section.

(3) The exemption provided by this section does not apply:

(a) To the use of machinery and equipment used directly in the generation of electricity using solar energy, or to the use of labor and services rendered in respect to installing such machinery and equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after December 31, 2015; and

(b) To the use of any machinery or equipment used directly in producing thermal heat using solar energy, or to the use of labor and services rendered in respect to installing such machinery or equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after June 30, 2018.

(4) This section expires June 30, 2018.

NEW SECTION. **Sec.**  Sections 6 and 10 through 15 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**