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**SECOND SUBSTITUTE HOUSE BILL 1814**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** House Finance (originally sponsored by Representatives Shewmake, Berry, Bateman, Duerr, Macri, Ramel, Paul, Bergquist, Fitzgibbon, Pollet, Harris-Talley, and Kloba)

AN ACT Relating to expanding equitable access to the benefits of renewable energy through community solar projects; amending RCW 82.16.130 and 82.16.170; adding new sections to chapter 82.16 RCW; creating new sections; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds and declares that stimulating local investment in community solar projects continues to be an important part of a state energy strategy by helping to increase energy independence from fossil fuels, promote economic development, hedge against the effects of climate change, and attain environmental benefits. The legislature finds that although previous community solar programs were successful in stimulating these benefits, the programs failed to provide an adequate framework for low-income participation and long-term market certainty. The legislature finds that the vast majority of Washingtonians still do not have access to the benefits of solar energy. The legislature intends to stimulate the deployment of community solar projects for the benefit of all Washingtonians by funding the renewable energy production incentive program for community solar projects and by creating opportunities for broader participation, especially by low-income households and low-income service providers. As of December 2021, the state is 10.3 megawatts short of the 115 megawatts of solar photovoltaic capacity established as a goal under RCW 82.16.155. The legislature therefore intends to provide an incentive sufficient to promote installation of community solar projects through June 30, 2033, at which point the legislature expects to review the effectiveness of enhancing access to community solar projects.

**Sec.**  RCW 82.16.130 and 2017 3rd sp.s. c 36 s 4 are each amended to read as follows:

(1) A light and power business is allowed a credit against taxes due under this chapter in an amount equal to:

(a) Incentive payments made in any fiscal year under RCW 82.16.120 and 82.16.165; and

(b) Any fees a utility is allowed to recover pursuant to RCW 82.16.165(5).

(2) The credits must be taken in a form and manner as required by the department. The credit taken under this section for the fiscal year may not exceed one and one-half percent of the ((~~businesses'~~)) business's taxable power sales generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or two hundred fifty thousand dollars, whichever is greater, for incentive payments made for the following:

(a) Renewable energy systems, other than community solar projects, that are certified for an incentive payment as of June 30, 2020; and

(b) Community solar and shared commercial projects that are under precertification status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are certified for an incentive payment in accordance with the terms of that precertification by June 30, 2022.

(3) The credit may not exceed the tax that would otherwise be due under this chapter. Refunds may 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.

(4) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120, the amount of tax against which credit was claimed for the excess payments is immediately due and payable. The department may deduct amounts due from future credits claimed by the business.

(a) Except as provided in (b) of this subsection, the department must assess interest but not penalties on the taxes against which the credit was claimed. Interest 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 accrues until the taxes against which the credit was claimed are repaid.

(b) A business is not liable for excess payments made in reliance on amounts reported by the Washington State University extension energy program as due and payable as provided under RCW 82.16.165(20), if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

(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 for incentive payments made under RCW 82.16.120 expires June 30, 2020. Credits may not be claimed after June 30, 2021.

(7)(a) The right to earn tax credits for incentive payments made under RCW 82.16.165 for the following expires June 30, 2029:

(i) Renewable energy systems, other than community solar projects, that are certified for an incentive payment as of June 30, 2020; and

(ii) Community solar and shared commercial projects that are under precertification status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are certified for an incentive payment in accordance with the terms of that precertification by June 30, 2022.

(b) Credits may not be claimed after June 30, 2030.

(8) This section expires June 30, 2033.

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

(1) Beginning July 1, 2022, a light and power business is allowed a credit against taxes due under this chapter in an amount equal to incentive payments made in any fiscal year under section 5 of this act.

(2) The credits must be taken in a form and manner as required by the department. The credit taken under this section for the fiscal year may not exceed 1.5 percent of the business's taxable power sales generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or $250,000, whichever is greater, for incentive payments made for community solar projects that submit an application for precertification under section 5 of this act on or after July 1, 2022, and that are certified for an incentive payment in accordance with the terms of that precertification by June 30, 2033.

(3) The credit may not exceed the tax that would otherwise be due under this chapter. Refunds may not be granted in the place of credits.

(4) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under section 5 of this act, the amount of tax against which credit was claimed for the excess payments is immediately due and payable. The department may deduct amounts from future credits claimed by the business.

(a) Except as provided in (b) of this subsection, the department must assess interest but not penalties on the taxes against which the credit was claimed. Interest may be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and accrues until the taxes against which the credit was claimed are repaid.

(b) A business is not liable for excess payments made in reliance on amounts reported by the Washington State University extension energy program as due and payable as provided under section 5 of this act, if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

(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 for incentive payments made under section 5 of this act expires June 30, 2036. Credits may not be claimed under this section after June 30, 2037.

(7) This section expires June 30, 2038.

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

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

(a)(i) "Administrator" means the utility, nonprofit, tribal housing authority as provided in (a)(ii) of this subsection, or other local housing authority that organizes and administers a community solar project as provided in section 5 of this act and RCW 82.16.170.

(ii) A tribal housing authority may only administer a community solar project on tribal lands or lands held in trust for a federally recognized tribe by the United States for subscribers who are tribal members.

(b) "Certification" means the authorization issued by the Washington State University extension energy program establishing a community solar project administrator's eligibility to receive a low-income community solar incentive payment from the electric utility serving the site of the community solar project, on behalf of, and for the purpose of providing direct benefits to, its low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers.

(c)(i) "Community solar project" means a solar energy system that:

(A) Has a direct current nameplate capacity that is greater than 12 kilowatts but no greater than 1,000 kilowatts;

(B) Has, at minimum, either two subscribers or one low-income service provider subscriber; and

(C) Meets the applicable eligibility requirements in section 5 of this act.

(ii) A community solar project may include a storage system with a solar energy system.

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

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

(f) "Energy assistance" has the same meaning as provided in RCW 19.405.020.

(g) "Energy burden" has the same meaning as provided in RCW 19.405.020.

(h) "Governing body" has the same meaning as provided in RCW 19.280.020.

(i)(i) "Installed cost" includes only the renewable energy system components and fees that are integral and necessary for the generation and storage of electricity. Components and fees include:

(A) Solar modules and inverters;

(B) Battery systems;

(C) Balance of system, such as racking, wiring, switch gears, and meter bases;

(D) Nonhardware costs incurred up to the date of the final electrical inspection, such as fees associated with engineering, permitting, interconnection, and application;

(E) Labor; and

(F) Sales tax.

(ii) "Installed cost" does not include structures and fixtures that are not integral and necessary to the generation or storage of electricity, such as carports and roofing.

(j) "Low-income" has the same meaning as provided in RCW 19.405.020.

(k) "Low-income service provider" includes, but is not limited to, a local community action agency or local community service agency designated by the department of commerce under chapter 43.63A RCW, local housing authority, tribal housing authority, low-income tribal housing program, affordable housing provider, food bank, or other nonprofit organization that provides services to low-income households as part of their core mission.

(l) "Multifamily residential building" means a building containing more than two sleeping units or dwelling units where occupants are primarily permanent in nature.

(m) "Person" means an individual, firm, partnership, corporation, company, association, agency, or any other legal entity.

(n) "Preferred sites" means rooftops, structures, existing impervious surfaces, landfills, brownfields, previously developed sites, irrigation canals and ponds, stormwater collection ponds, industrial areas, dual-use solar projects that ensure ongoing agricultural operations, and other sites that do not displace critical habitat or productive farmland as defined by state and county planning processes.

(o) "Public agency" means any political subdivision of the state including, but not limited to, municipal and county governments, special purpose districts, and local housing authorities, but does not include state agencies.

(p)(i) Except as otherwise provided in (p)(ii) of this subsection, "qualifying subscriber" means a low-income subscriber, low-income service provider subscriber, tribal agency subscriber, or public agency subscriber.

(ii) For tribal agency subscribers and public agency subscribers, only the portion of their subscription to a community solar project that is demonstrated to benefit low-income beneficiaries, including low-income service providers and services provided to low-income citizens or households, is to be considered a qualifying subscriber.

(q) "Retail electric customer" has the same meaning as in RCW 80.60.010.

(r) "Subscriber" means a retail electric customer of an electric utility who owns or is the beneficiary of one or more units of a community solar project directly interconnected with that same utility.

(s) "Subscription" means an agreement between a subscriber and the administrator of a community solar project.

(2) This section expires June 30, 2038.

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

(1) Beginning July 1, 2022, through June 30, 2033, an administrator of a community solar project meeting the eligibility requirements described in this section and RCW 82.16.170(3) may submit an application to the Washington State University extension energy program to receive a precertification for a community solar project. Projects with precertification applications approved by the Washington State University extension energy program have two years to complete their projects and apply for certification. Projects that have not completed certification within two years may apply to the Washington State University extension energy program for an extension of their precertification status for an additional 180 days if they can demonstrate significant progress during the time they were in precertification status. By certifying qualified projects pursuant to the requirements of this section and RCW 82.16.170(3), the Washington State University extension energy program authorizes the utility serving the site of a community solar project in the state of Washington to remit a one-time low-income community solar incentive payment to the community solar project administrator, who accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers.

(2) A one-time low-income community solar incentive payment remitted to a community solar project administrator for a project certified under this section equals the sum of the following:

(a) An amount, not to exceed $20,000 per community solar project, equal to the community solar project's administrative costs related to the administrative start-up of the project for qualifying subscribers; and

(b) An amount that does not exceed 100 percent of the proportional cost of the installed cost of the share of the community solar project that provides direct benefits to qualifying subscribers, taking into account any federal tax credits or other federal or nonfederal grants or incentives that the program is benefiting from.

(3) No new certification may be issued under this section for a community solar project that was certified under RCW 82.16.120 or 82.16.165, or for a community solar project served by a utility that has elected not to participate in the incentive program provided in this section.

(4) Community solar projects that are under precertification status under RCW 82.16.165 as of June 30, 2020, may not apply for precertification of that same project for the one-time low-income community solar incentive payment provided in this section.

(5)(a) In addition to the one-time low-income community solar incentive payment under subsection (2) of this section, a participating utility must also provide the following compensation for the generation of electricity from the certified project:

(i) For a community solar project that has an alternating current nameplate capacity no greater than 100 kilowatts, and that is connected behind the electric service meter, compensation must be determined in accordance with RCW 80.60.020 and provided to the retail electric customer receiving service at the situs of the meter.

(ii) For all other community solar projects for which the administrator is not a utility, compensation must be determined and paid to the retail electric customer according to a written agreement between the retail electric customer and the utility.

(iii) For all other community solar projects for which the administrator is a utility, compensation must be provided directly to subscribers in accordance with subsection (8)(a)(i) of this section.

(iv)(A) When the administrator of a community solar project receives compensation for the generation of electricity from a participating utility or from the retail electric customer that is the host for the community solar project, the administrator must provide all of that compensation as a direct benefit to the project subscribers, except as described in (iv)(B) of this subsection.

(B) An administrator may deduct ongoing administrative and maintenance costs from compensation they provide to subscribers from power generation, provided those costs are identified in the subscription agreement or justified to the Washington State University extension energy program. The Washington State University extension energy program shall review any such administrative and maintenance costs justifications for reasonableness and approve, reject, or negotiate changes to the proposal. An administrator may request a change in the deduction for administrative and maintenance costs to the Washington State University extension energy program only if the subscription agreement includes language notifying the subscriber that administrative and maintenance fees are subject to change.

(b) For 10 years after certification, and by March 1st of each year following certification, the administrator must provide the Washington State University extension energy program with signed statements of the following for the preceding year:

(i) The energy production for the period for which compensation is to be provided;

(ii) Each subscriber's units of the project;

(iii) The amount disbursed to each subscriber for the period; and

(iv) The date and amount disbursed to each subscriber.

(6) A utility's participation in the incentive program provided in this section is voluntary.

(a) The utility may terminate its voluntary participation in the program by providing notice in writing to the Washington State University extension energy program to cease accepting new applications for precertification for community solar projects that would be served by that utility. Such notice of termination of participation is effective after 15 days, at which point the Washington State University extension energy program may not accept new applications for precertification for community solar projects 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 extension energy program must report on its website that community solar project customers of that utility are no longer eligible to receive new certifications under the program.

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

(7)(a) The Washington State University extension energy program may issue certifications authorizing incentive payments under this section in a total statewide amount not to exceed $100,000,000, and subject to the following biennial dollar limits:

(i) For fiscal year 2023, $300,000; and

(ii) For each biennium beginning on or after July 1, 2023, $25,000,000.

(b) The Washington State University extension energy program must attempt to equitably distribute incentive funds throughout the state. Considerations for equitable fund distribution, based on precertification applications received from administrators served by utilities voluntarily participating in the program, may include measures to reserve or allocate available funds based on the proportion of public utility taxes collected, the proportion of the state's low-income customers served by each utility based on low-income home energy assistance program data at the department of commerce, measures to achieve an equitable geographic distribution of community solar installations and a diversity of administrative models for community solar projects, and the amount of energy burden reduction for qualifying subscribers relative to the project's cost. If an equitable distribution of funds is not feasible due to a lack of precertification applications, the Washington State University extension energy program may allocate funds based on (a) of this subsection on a first-come, first-served basis.

(c) The Washington State University extension energy program must ensure that at least $2,000,000 of the statewide total for the entire program is used to support nonprofit organizations' innovative approaches to allocating benefits to subscribers, defining and valuing benefits to be provided to subscribers or other aspects of the subscriber, administrator, system host, and utility relationship.

(d) The Washington State University extension energy program must also ensure that at least $2,000,000 of the statewide total for the entire program is available to tribal governments and their designated subdivisions and agencies.

(e) The Washington State University extension energy program shall regularly publish and update guidelines for how it manages the allocation of available funding, based on the evaluation of applications and the factors specified in (b) of this subsection.

(f) Beginning in fiscal year 2026, the Washington State University extension energy program may waive the requirements in (c) or (d) of this subsection if it fails to receive applications that meet the criteria of (c) or (d) of this subsection sufficient to result in the full allocation of incentives.

(8)(a) Prior to obtaining certification under this section, the administrator of a community solar project must apply for precertification against the funds available for incentive payments under subsection (7) of this section in order to be guaranteed an incentive payment under this section. The application for precertification must include, at a minimum:

(i) A demonstration of how the project will deliver continuing direct benefits to low-income subscribers. A direct benefit can include credit for the power generation for the community solar project or other mechanisms that lower the energy burden of a low-income subscriber; and

(ii) Any other information the Washington State University extension energy program deems necessary in determining eligibility for precertification.

(b) The administrator of a community solar project must complete an application for certification in accordance with the requirements of subsection (9) of this section within less than two years of being approved for precertification status. The administrator must submit a project update to the Washington State University extension energy program after one year in precertification status.

(9) To obtain certification for the one-time community solar incentive payment provided under this section, a project administrator must submit to the Washington State University extension energy program an application, including, at a minimum:

(a) A signed statement that the applicant has not previously received a notice of eligibility from the department under RCW 82.16.120 or the Washington State University extension energy program under RCW 82.16.165 entitling the applicant to receive annual incentive payments for electricity generated by the community solar project at the same meter location;

(b) A signed statement of the costs paid by the administrator related to administering the project for qualifying subscribers;

(c) A signed statement of the total project costs, including the proportional cost of the share of the community solar project that provides direct benefits to qualifying subscribers;

(d) A signed statement describing the amount of the upfront incentive and the timing, method, and distribution of estimated benefits to qualifying subscribers. The statement must describe any estimated energy burden reduction associated with the direct benefits;

(e) Available system operation data, such as global positioning system coordinates, tilt, estimated shading, and azimuth;

(f) Any other information the Washington State University extension energy program deems necessary in determining eligibility and incentive levels or administering the program;

(g)(i) Except as provided in (g)(ii) of this subsection (9), the date that the community solar project received its final electrical inspection from the applicable local jurisdiction, as well as a copy of the permit or, if the permit is available online, the permit number or other documentation deemed acceptable by the Washington State University extension energy program;

(ii) The Washington State University extension energy program may waive the requirement in (g)(i) of this subsection (9), accepting an application and granting provisional certification prior to proof of final electrical inspection. Provisional certification expires 180 days after issuance, unless the applicant submits proof of the final electrical inspection from the applicable local jurisdiction or the Washington State University extension energy program extends certification, for a term or terms of 30 days, due to extenuating circumstances;

(h) Confirmation of the number of qualifying subscribers;

(i) A copy of the executed agreement describing how benefits will be determined and distributed from the retail electric customer to the administrator if the administrator and the retail electric customer are not the same. The Washington State University extension energy program must review the executed agreement to determine that benefits are being fairly determined and that there is an adequate plan for distributing the benefits; and

(j) Any other information the Washington State University extension energy program deems necessary in determining eligibility and incentive levels or administering the program.

(10) No incentive payments may be authorized or accrued until the final electrical inspection and executed interconnection agreement are submitted to the Washington State University extension energy program.

(11)(a) The Washington State University extension energy program must review each project for which an application for certification is submitted in accordance with subsection (8) of this section for reasonable cost and financial structure, with a targeted installed cost for the solar energy system of $2 per watt direct current for systems over 200 kilowatts and $2.25 per watt direct current for systems equal to or under 200 kilowatts. For solar energy systems that include storage systems, the targeted installed cost of the storage system is $600 per kilowatt-hour of storage capacity.

(b) The Washington State University extension energy program may approve an application for a project that costs more or less than the targeted installed costs under (a) of this subsection based on a review of the project, documents submitted by the project applicant, and available data. Project cost evaluations may include costs associated with energy storage systems and electrical system improvements to permit grid-independent operation. Applicants may petition the Washington State University extension energy program to approve a higher cost per watt or per kilowatt-hour for unusual circumstances.

(c) The Washington State University extension energy program may review the cost per watt target under (a) of this subsection prior to each fiscal biennium and is authorized to determine a new cost per watt target.

(12)(a) Within 30 days of receipt of an application for certification, the Washington State University extension energy program must notify the applicant and, except when a utility is the applicant, the utility serving the site of the community solar project, by mail or electronically, whether certification has been granted. The certification notice must state the total dollar amount of the low-income community solar incentive payment for which the applicant is eligible under this section.

(b) Within 60 days of receipt of a notification under (a) of this subsection, the utility serving the site of the community solar project must remit the applicable one-time low-income community solar incentive payment to the project administrator, who accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers.

(13)(a) Certification follows the community solar project if the following conditions are met using procedures established by the Washington State University extension energy program:

(i) The community solar project is transferred to a new owner who notifies the Washington State University extension energy program of the transfer;

(ii) The new owner provides an executed interconnection agreement with the utility serving the site of the community solar project; and

(iii) The new owner agrees to provide equivalent ongoing benefits to qualifying subscribers as the current owner.

(b) In the event that a qualifying subscriber terminates their participation in a community solar project during the first 120 months after project certification, the system certification follows the project and participation must be transferred to a new qualifying subscriber.

(14) Beginning January 1, 2023, the Washington State University extension energy program must post on its website and update at least monthly a report, by utility, of:

(a) The number of certifications issued for community solar projects; and

(b) An estimate of the amount of credit that has not yet been allocated for low-income community solar incentive payments and that remains available for new community solar project certifications in the state.

(15) Persons receiving incentive payments under this section must keep and preserve, for a period of five years for the duration of the consumer contract, suitable records as may be necessary to determine the amount of incentive payments applied for and received.

(16) The nonpower attributes of the community solar project must be retired on behalf of the subscribers unless, in the case of a utility-owned community solar project, a contract between the subscriber that benefits the subscriber clearly states that the attributes will be retained and retired by the utility.

(17) All lists, technical specifications, determinations, and guidelines developed under this section must be made publicly available online by the Washington State University extension energy program.

(18) The Washington State University extension energy program may, through a public process, develop program requirements, policies, and processes necessary for the administration or implementation of this section.

(19) 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.

(20) No certification may be issued under this section by the Washington State University extension energy program for a community solar project after June 30, 2035.

(21) Community solar projects certified under this section must be sited on preferred sites to protect natural and working lands as determined by the Washington State University extension energy program.

(22) This section expires June 30, 2038.

**Sec.**  RCW 82.16.170 and 2017 3rd sp.s. c 36 s 7 are each amended to read as follows:

(1) The purpose of community solar programs is to facilitate broad, equitable community investment in and access to solar power. Beginning July 1, 2017, a community solar administrator may organize and administer a community solar project as provided in this section.

(2) ((~~A~~)) In order to receive certification for the incentive payment provided under RCW 82.16.165(1) by June 30, 2021, a community solar project must have a direct current nameplate capacity that is no more than one thousand kilowatts and must have at least ten participants or at least one participant for every ten kilowatts of direct current nameplate capacity, whichever is greater. A community solar project that has a direct current nameplate capacity greater than five hundred kilowatts must be subject to a standard interconnection agreement with the utility serving the situs of the community solar project. Except for community solar projects authorized under subsection ((~~(9)~~)) (10) of this section, each participant must be a customer of the utility providing service at the situs of the community solar project.

(3) In order to receive certification for the incentive payment provided under section 5 of this act beginning July 1, 2022, a community solar project must meet the following requirements:

(a) The administrator of the community solar project must be a utility, nonprofit, or tribal housing authority that administers a community solar project on tribal lands or lands held in trust for a federally recognized tribe by the United States for subscribers who are tribal members, or other local housing authority. The administrator of the community solar project must apply for precertification under section 5 of this act on or after July 1, 2022;

(b) The community solar project must have a direct current nameplate capacity that is greater than 12 kilowatts but no greater than 1,000 kilowatts, and must have at least two subscribers or one low-income service provider subscriber;

(c) The administrator of the community solar project must provide a verified list of qualifying subscribers;

(d) Verification that an individual household subscriber meets the definition of low-income must be provided to the administrator by an entity with authority to maintain the confidentiality of the income status of the low-income subscriber. If the providing entity incurs costs to verify a subscriber's income status, the administrator must provide reimbursement of those costs;

(e) Except for community solar projects authorized under subsection (10) of this section, each subscriber must be a customer of the utility providing service at the site of the community solar project;

(f) In the event that a low-income subscriber in a community solar project certified under section 5 of this act moves within 120 months of system certification from the household premises of the subscriber's current subscription to another, the subscriber may continue the subscription, provided that the new household premises is served by the utility providing service at the site of the community solar project. In the event that a subscriber is no longer served by that utility or the subscriber terminates participation in a community solar project certified under section 5 of this act, the certification follows the system and participation must be transferred by the administrator to a new qualifying subscriber as specified in section 5 of this act;

(g) The administrator must include in the application for precertification a project prospectus that demonstrates how the administrator intends to provide direct benefits to qualifying subscribers for the duration of their subscription to the community solar project; and

(h) The length of the subscription term for low-income subscribers must be the same length as for other subscribers, if applicable.

(4) The administrator of a community solar project must administer the project in a transparent manner that allows for fair and nondiscriminatory opportunity for participation by utility customers.

((~~(4)~~)) (5) The administrator of a community solar project may establish a reasonable fee to cover costs incurred in organizing and administering the community solar project. Project participants, prior to making the commitment to participate in the project, must be given clear and conspicuous notice of the portion of the incentive payment that will be used for this purpose.

((~~(5)~~)) (6) The administrator of a community solar project must maintain and update annually through June 30, 2030, the following information for each project it operates or administers:

(a) Ownership information;

(b) Contact information for technical management questions;

(c) Business address;

(d) Project design details, including project location, output capacity, equipment list, and interconnection information; and

(e) Subscription information, including rates, fees, terms, and conditions.

((~~(6)~~)) (7) The administrator of a community solar project must provide the information required in subsection ((~~(5)~~)) (6) of this section to the Washington State University extension energy program at the time it submits the applications allowed under RCW 82.16.165(1) and section 5 of this act.

((~~(7)~~)) (8) The administrator of a community solar project must provide each project participant with a disclosure form containing all material terms and conditions of participation in the project, including but not limited to the following:

(a) Plain language disclosure of the terms under which the project participant's share of any incentive payment will be calculated by the Washington State University extension energy program ((~~over the life of the contract~~));

(b) Contract provisions regulating the disposition or transfer of the project participant's interest in the project, including any potential costs associated with such a transfer;

(c) All recurring and nonrecurring charges;

(d) A description of the billing and payment procedures;

(e) A description of any compensation to be paid in the event of project underperformance;

(f) Current production projections and a description of the methodology used to develop the projections;

(g) Contact information for questions and complaints; and

(h) Any other terms and conditions of the services provided by the administrator.

((~~(8)~~)) (9) A utility may not adopt rates, terms, conditions, or standards that unduly or unreasonably discriminate between utility-administered community solar projects and those administered by another entity.

((~~(9)~~)) (10) A public utility district that is engaged in distributing electricity to more than one retail electric customer in the state and a joint operating agency organized under chapter 43.52 RCW on or before January 1, 2017, may enter into an agreement with each other to construct and own a community solar project that is located on property owned by a joint operating agency or on property that receives electric service from a participating public utility district. Each participant of a community solar project under this subsection must be a customer of at least one of the public utility districts that is a party to the agreement with a joint operating agency to construct and own a community solar project.

((~~(10)~~)) (11) The Washington utilities and transportation commission must publish, without disclosing proprietary information, a list of the following:

(a) Entities other than utilities, including affiliates or subsidiaries of utilities, that organize and administer community solar projects; and

(b) Community solar projects and related programs and services offered by investor-owned utilities.

((~~(11)~~)) (12) If a consumer-owned utility opts to provide a community solar program or contracts with a nonutility administrator to offer a community solar program, the governing body of the consumer-owned utility must publish, without disclosing proprietary information, a list of the nonutility administrators contracted by the utility as part of its community solar program.

((~~(12)~~)) (13) Except for parties engaged in actions and transactions regulated under laws administered by other authorities and exempted under RCW 19.86.170, a violation of this section 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 chapter 36, Laws of 2017 3rd sp. sess. 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.

((~~(13)~~)) (14) Nothing in this section may be construed as intending to preclude persons from investing in or possessing an ownership interest in a community solar project, or from applying for and receiving federal investment tax credits.

(15) This section expires June 30, 2038.

NEW SECTION. **Sec.**  RCW 82.32.808 does not apply to this act.

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 ---**