

2SHB 1814 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/10/2022

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds and declares that
4 stimulating local investment in community solar projects continues to
5 be an important part of a state energy strategy by helping to
6 increase energy independence from fossil fuels, promote economic
7 development, hedge against the effects of climate change, and attain
8 environmental benefits. The legislature finds that although previous
9 community solar programs were successful in stimulating these
10 benefits, the programs failed to provide an adequate framework for
11 low-income participation and long-term market certainty. The
12 legislature finds that the vast majority of Washingtonians still do
13 not have access to the benefits of solar energy. The legislature
14 intends to stimulate the deployment of community solar projects for
15 the benefit of all Washingtonians by funding the renewable energy
16 production incentive program for community solar projects and by
17 creating opportunities for broader participation, especially by low-
18 income households and low-income service providers. As of December
19 2021, the state is 10.3 megawatts short of the 115 megawatts of solar
20 photovoltaic capacity established as a goal under RCW 82.16.155. The
21 legislature therefore intends to provide an incentive sufficient to
22 promote installation of community solar projects through June 30,
23 2033, at which point the legislature expects to review the
24 effectiveness of enhancing access to community solar projects.

25 **Sec. 2.** RCW 82.16.130 and 2017 3rd sp.s. c 36 s 4 are each
26 amended to read as follows:

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

29 (a) Incentive payments made in any fiscal year under RCW
30 82.16.120 and 82.16.165; and

1 (b) Any fees a utility is allowed to recover pursuant to RCW
2 82.16.165(5).

3 (2) The credits must be taken in a form and manner as required by
4 the department. The credit taken under this section for the fiscal
5 year may not exceed one and one-half percent of the (~~businesses~~)
6 business's taxable Washington power sales generated in calendar year
7 2014 and due under RCW 82.16.020(1)(b) or two hundred fifty thousand
8 dollars, whichever is greater, for incentive payments made for the
9 following:

10 (a) Renewable energy systems, other than community solar
11 projects, that are certified for an incentive payment as of June 30,
12 2020; and

13 (b) Community solar and shared commercial projects that are under
14 precertification status under RCW 82.16.165(7)(b) as of June 30,
15 2020, and that are certified for an incentive payment in accordance
16 with the terms of that precertification by June 30, 2022.

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

21 (4) For any business that has claimed credit for amounts that
22 exceed the correct amount of the incentive payable under RCW
23 82.16.120, the amount of tax against which credit was claimed for the
24 excess payments is immediately due and payable. The department may
25 deduct amounts due from future credits claimed by the business.

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

32 (b) A business is not liable for excess payments made in reliance
33 on amounts reported by the Washington State University extension
34 energy program as due and payable as provided under RCW
35 82.16.165(20), if such amounts are later found to be abnormal or
36 inaccurate due to no fault of the business.

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

1 (6) The right to earn tax credits for incentive payments made
2 under RCW 82.16.120 expires June 30, 2020. Credits may not be claimed
3 after June 30, 2021.

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

6 (i) Renewable energy systems, other than community solar
7 projects, that are certified for an incentive payment as of June 30,
8 2020; and

9 (ii) Community solar and shared commercial projects that are
10 under precertification status under RCW 82.16.165(7)(b) as of June
11 30, 2020, and that are certified for an incentive payment in
12 accordance with the terms of that precertification by June 30, 2022.

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

14 (8) This section expires June 30, 2033.

15 NEW SECTION. Sec. 3. A new section is added to chapter 82.16
16 RCW to read as follows:

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

21 (2) The credits must be taken in a form and manner as required by
22 the department. The credit taken under this section for the fiscal
23 year may not exceed 1.5 percent of the business's taxable Washington
24 power sales generated in calendar year 2014 and due under RCW
25 82.16.020(1)(b) or \$250,000, whichever is greater, for incentive
26 payments made for community solar projects that submit an application
27 for precertification under section 5 of this act on or after July 1,
28 2022, and that are certified for an incentive payment in accordance
29 with the terms of that precertification by June 30, 2033.

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

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

38 (a) Except as provided in (b) of this subsection, the department
39 must assess interest but not penalties on the taxes against which the

1 credit was claimed. Interest may be assessed at the rate provided for
2 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
3 date the credit was claimed, and accrues until the taxes against
4 which the credit was claimed are repaid.

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

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

13 (6) The right to earn tax credits for incentive payments made
14 under section 5 of this act expires June 30, 2036. Credits may not be
15 claimed under this section after June 30, 2037.

16 (7) This section expires June 30, 2038.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.16
18 RCW to read as follows:

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

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

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

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

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

1 (A) Has a direct current nameplate capacity that is greater than
2 12 kilowatts but no greater than 199 kilowatts;

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

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

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

9 (d) "Consumer-owned utility" has the same meaning as in RCW
10 19.280.020.

11 (e) "Electric utility" or "utility" means a consumer-owned
12 utility or investor-owned utility as those terms are defined in RCW
13 19.280.020.

14 (f) "Energy assistance" has the same meaning as provided in RCW
15 19.405.020.

16 (g) "Energy burden" has the same meaning as provided in RCW
17 19.405.020.

18 (h) "Governing body" has the same meaning as provided in RCW
19 19.280.020.

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

23 (A) Solar modules and inverters;

24 (B) Battery systems;

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

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

30 (E) Labor; and

31 (F) Sales tax.

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

35 (j) "Interconnection customer" means the person, corporation,
36 partnership, government agency, or other entity that proposes to
37 interconnect, or has executed an interconnection agreement, with the
38 electric utility.

39 (k) "Low-income" has the same meaning as provided in RCW
40 19.405.020.

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

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

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

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

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

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

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

33 (r) "Retail electric customer" has the same meaning as in RCW
34 80.60.010.

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

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

1 (2) This section expires June 30, 2038.

2 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.16
3 RCW to read as follows:

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

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

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

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

37 (3) No new certification may be issued under this section for a
38 community solar project that was certified under RCW 82.16.120 or
39 82.16.165, or for a community solar project served by a utility that

1 has elected not to participate in the incentive program provided in
2 this section.

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

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

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

16 (ii) For all other community solar projects for which the
17 administrator is not a utility, compensation paid to the
18 interconnection customer must be determined in a written agreement
19 between the interconnection customer and the utility.

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

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

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

1 subscriber that administrative and maintenance fees are subject to
2 change.

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

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

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

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

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

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

14 (a) The utility may terminate its voluntary participation in the
15 program by providing notice in writing to the Washington State
16 University extension energy program to cease accepting new
17 applications for precertification for community solar projects that
18 would be served by that utility. Such notice of termination of
19 participation is effective after 15 days, at which point the
20 Washington State University extension energy program may not accept
21 new applications for precertification for community solar projects
22 that would be served by that utility.

23 (b) Upon receiving a utility's notice of termination of
24 participation in the incentive program, the Washington State
25 University extension energy program must report on its website that
26 community solar project customers of that utility are no longer
27 eligible to receive new certifications under the program.

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

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

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

36 (ii) For each biennium beginning on or after July 1, 2023,
37 \$25,000,000.

38 (b) The Washington State University extension energy program must
39 attempt to equitably distribute incentive funds throughout the state.
40 Considerations for equitable fund distribution, based on

1 precertification applications received from administrators served by
2 utilities voluntarily participating in the program, may include
3 measures to reserve or allocate available funds based on the
4 proportion of public utility taxes collected, the proportion of the
5 state's low-income customers served by each utility based on low-
6 income home energy assistance program data at the department of
7 commerce, measures to achieve an equitable geographic distribution of
8 community solar installations and a diversity of administrative
9 models for community solar projects, and the amount of energy burden
10 reduction for qualifying subscribers relative to the project's cost.
11 If an equitable distribution of funds is not feasible due to a lack
12 of precertification applications, the Washington State University
13 extension energy program may allocate funds based on (a) of this
14 subsection on a first-come, first-served basis.

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

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

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

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

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

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

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

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

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

19 (a) A signed statement that the applicant has not previously
20 received a notice of eligibility from the department under RCW
21 82.16.120 or the Washington State University extension energy program
22 under RCW 82.16.165 entitling the applicant to receive annual
23 incentive payments for electricity generated by the community solar
24 project at the same meter location;

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

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

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

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

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

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

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

16 (h) Confirmation of the number of qualifying subscribers;

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

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

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

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

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

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

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

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

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

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

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

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

39 (b) In the event that a qualifying subscriber terminates their
40 participation in a community solar project during the first 120

1 months after project certification, the system certification follows
2 the project and participation must be transferred to a new qualifying
3 subscriber.

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

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

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

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

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

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

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

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

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

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

1 (22) This section expires June 30, 2038.

2 **Sec. 6.** RCW 82.16.170 and 2017 3rd sp.s. c 36 s 7 are each
3 amended to read as follows:

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

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

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

24 (a) The administrator of the community solar project must be a
25 utility, nonprofit, or tribal housing authority that administers a
26 community solar project on tribal lands or lands held in trust for a
27 federally recognized tribe by the United States for subscribers who
28 are tribal members, or other local housing authority. The
29 administrator of the community solar project must apply for
30 precertification under section 5 of this act on or after July 1,
31 2022;

32 (b) The community solar project must have a direct current
33 nameplate capacity that is greater than 12 kilowatts but no greater
34 than 199 kilowatts, and must have at least two subscribers or one
35 low-income service provider subscriber;

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

38 (d) Verification that an individual household subscriber meets
39 the definition of low-income must be provided to the administrator by

1 an entity with authority to maintain the confidentiality of the
2 income status of the low-income subscriber. If the providing entity
3 incurs costs to verify a subscriber's income status, the
4 administrator must provide reimbursement of those costs;

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

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

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

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

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

33 ~~((4))~~ (5) The administrator of a community solar project may
34 establish a reasonable fee to cover costs incurred in organizing and
35 administering the community solar project. Project participants,
36 prior to making the commitment to participate in the project, must be
37 given clear and conspicuous notice of the portion of the incentive
38 payment that will be used for this purpose.

1 ~~((5))~~ (6) The administrator of a community solar project must
2 maintain and update annually through June 30, 2030, the following
3 information for each project it operates or administers:

4 (a) Ownership information;

5 (b) Contact information for technical management questions;

6 (c) Business address;

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

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

11 ~~((6))~~ (7) The administrator of a community solar project must
12 provide the information required in subsection ~~((5))~~ (6) of this
13 section to the Washington State University extension energy program
14 at the time it submits the applications allowed under RCW
15 82.16.165(1) and section 5 of this act.

16 ~~((7))~~ (8) The administrator of a community solar project must
17 provide each project participant with a disclosure form containing
18 all material terms and conditions of participation in the project,
19 including but not limited to the following:

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

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

27 (c) All recurring and nonrecurring charges;

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

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

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

33 (g) Contact information for questions and complaints; and

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

36 ~~((8))~~ (9) A utility may not adopt rates, terms, conditions, or
37 standards that unduly or unreasonably discriminate between utility-
38 administered community solar projects and those administered by
39 another entity.

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

12 ~~((10))~~ (11) The Washington utilities and transportation
13 commission must publish, without disclosing proprietary information,
14 a list of the following:

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

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

20 ~~((11))~~ (12) If a consumer-owned utility opts to provide a
21 community solar program or contracts with a nonutility administrator
22 to offer a community solar program, the governing body of the
23 consumer-owned utility must publish, without disclosing proprietary
24 information, a list of the nonutility administrators contracted by
25 the utility as part of its community solar program.

26 ~~((12))~~ (13) Except for parties engaged in actions and
27 transactions regulated under laws administered by other authorities
28 and exempted under RCW 19.86.170, a violation of this section
29 constitutes an unfair or deceptive act in trade or commerce in
30 violation of chapter 19.86 RCW, the consumer protection act. Acts in
31 violation of chapter 36, Laws of 2017 3rd sp. sess. are not
32 reasonable in relation to the development and preservation of
33 business, and constitute matters vitally affecting the public
34 interest for the purpose of applying the consumer protection act,
35 chapter 19.86 RCW.

36 ~~((13))~~ (14) Nothing in this section may be construed as
37 intending to preclude persons from investing in or possessing an
38 ownership interest in a community solar project, or from applying for
39 and receiving federal investment tax credits.

40 (15) This section expires June 30, 2038.

1 NEW SECTION. **Sec. 7.** RCW 82.32.808 does not apply to this act.

2 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
3 preservation of the public peace, health, or safety, or support of
4 the state government and its existing public institutions, and takes
5 effect immediately."

2SHB 1814 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/10/2022

6 On page 1, line 2 of the title, after "projects;" strike the
7 remainder of the title and insert "amending RCW 82.16.130 and
8 82.16.170; adding new sections to chapter 82.16 RCW; creating new
9 sections; providing expiration dates; and declaring an emergency."

EFFECT: (1) Reduces the maximum capacity of a community solar
project from 1000kW to 199kW;
(2) Defines the term "interconnection customer" and replaces the
term "retail electric customer" with "interconnection customer" in
certain cases where the administrator is not a utility; and
(3) Clarifies the existing requirement that the public utility
tax credit must be calculated based on Washington state taxable power
sales.

--- END ---