
Environment & Energy Committee

HB 1814

Brief Description: Expanding equitable access to the benefits of renewable energy through community solar projects.

Sponsors: Representatives Shewmake, Berry, Bateman, Duerr, Macri, Ramel, Paul, Bergquist, Fitzgibbon, Pollet, Harris-Talley and Kloba.

Brief Summary of Bill

- Establishes a new community solar incentive program, to be administered by the Washington State University Extension Energy Program, for the purpose of providing direct benefits to low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers (Community Solar Expansion Program).
- Sets a statewide total cap of \$20 million for the Community Solar Expansion Program incentive payments.
- Creates a new public utility tax credit equal to the incentive payments paid by an electric utility under the Community Solar Expansion Program.
- Extends the date that community solar projects may be certified under the existing Renewable Energy Production Incentive Program from 2021 to 2022.

Hearing Date: 1/21/22

Staff: Megan McPhaden (786-7114).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Renewable Energy Cost Recovery Incentive Payment Program.

In 2005 the Renewable Energy Cost Recovery Incentive Payment Program (Legacy Program) was created to allow an individual, business, or local government that owns an eligible renewable energy system to apply to its electric utility for an investment cost recovery incentive payment for each kilowatt-hour (kWh) of electricity produced by the system. In 2009 the Legacy Program was expanded to include community solar projects. The Legacy Program closed to new customer participants after September 30, 2017.

Renewable Energy Production Incentive Program.

In 2017 the Washington State University Extension Energy Program (WSU Energy Program) was directed to launch and administer a new program known as the Renewable Energy Production Incentive Program (Production Incentive Program), which opened to new participants on July 1, 2017.

Under the Production Incentive Program, a person who owns a renewable energy system, an administrator of a community solar project, a utility, or a business under contract with a utility that administers a shared commercial project, may apply to the WSU Energy Program for certification establishing the applicant's eligibility to receive an annual production incentive payment for each kWh of alternating current electricity generated by the system. Among other requirements, applicants must apply for precertification against remaining available incentive payments and must complete their applications within one year. The WSU Extension Energy Program may not issue new certifications under the Production Incentive Program after June 30, 2021.

In the case of a utility-owned community solar or shared commercial solar project, the nonpower attributes of the renewable energy system belong to the participant, and can be kept, sold, or transferred at the utility customer's discretion unless a contract between the customer and the utility clearly specifies that the attributes will be retained by the utility. Nonpower attributes are the environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity.

As part of its 2021 tax preference reviews, the Joint Legislative Audit and Review Committee must review the public utility tax credit and incentives provided under the Production Incentive Program.

Community Solar Projects.

Capacity.

Under the Production Incentive Program, a "community solar project" is a solar energy system with a direct current nameplate generating capacity no greater than 1,000 kilowatts (kW). A community solar project with a generating capacity greater than 500 kW must be subject to a standard interconnection agreement with the utility serving the site of the project.

Administration.

A community solar project must be administered by a utility, nonprofit organization, or local

housing authority and must have at least 10 participants, or one participant for every 10 kW of direct current nameplate capacity, whichever is greater. Except for community solar projects administered in cooperation with a joint operating agency, each participant must be a customer of the utility providing service at the site of the community solar project. 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.

Reporting.

The Utilities and Transportation Commission (UTC) must publish, without disclosing proprietary information, a list of:

- entities other than utilities that organize and administer community solar projects; and
- community solar projects and related programs and services offered by investor-owned utilities.

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.

Violation of the reporting and disclosure requirements for administrators of community solar projects is a violation of the Consumer Protection Act.

Production Incentive Program Certification and Payments.

If the WSU Energy Program certifies a project under the Production Incentive Program, the certification is valid for the program term. "Program term" for a community solar project, shared commercial solar project, or any other renewable energy system, means eight years, or until cumulative incentive payments for electricity produced by the project reach 50 percent of the total system price (including applicable sales tax), whichever occurs first. Applicants and participants of certified projects are entitled to receive incentive payments for electricity generated for the program term from the date the renewable energy system commences operation.

The incentive rate available depends on the fiscal year of certification, the system type, and whether the system is eligible for a made-in-Washington bonus rate. A renewable energy system or community solar project is eligible for a made-in-Washington bonus rate if its solar modules are made in Washington or its wind turbine or tower is made in Washington. The incentive rates to be paid per kWh of electricity generated under the Production Incentive Program are as follows:

Fiscal year of system certification	Base rate-residential-scale	Base rate-commercial-scale	Base rate-community solar	Base rate-shared commercial solar	Made-in-Washington Bonus Rate
2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05

2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
2020	\$0.12	\$0.02	\$0.12	\$0.02	\$0.03
2021	\$0.10	\$0.02	\$0.02	\$0.02	\$0.02

No person, business, or household is eligible to receive production incentive payments of more than:

- \$5,000 per year for residential-scale systems or community solar projects;
- \$25,000 per year for commercial-scale systems; or
- \$35,000 per year for shared commercial solar projects.

Public Utility Tax Credits.

An electric utility may claim a credit against its public utility tax obligations for incentive payments made by the utility to a customer under the Legacy Program or the Production Incentive Program.

An electric utility may claim an annual credit of up to 1.5 percent of its taxable power sales generated in calendar year 2014 or \$250,000, whichever is greater. The credit cannot exceed the amount of tax owed by the utility and cannot be refunded.

No credits may be claimed by an electric utility under the Legacy Program after June 30, 2021. For the Production Incentive Program, no credits may be earned after June 30, 2029, and no credits may be claimed after June 30, 2030.

Summary of Bill:

Renewable Energy Production Incentive Program.

The Washington State University Extension Energy Program (WSU Energy Program) may not certify a renewable energy system, other than a community solar system, under the Renewable Energy Production Incentive Program (Production Incentive Program) after June 30, 2020, rather than after June 30, 2021. The WSU Energy Program may certify a community solar project under the Production Incentive Program by June 30, 2022, rather than by June 30, 2021.

Applicants with precertification status must complete their application for certification within two years, rather than one year, to retain their precertification status. If a community solar project or shared commercial solar project application is in precertification status under the Production Incentive Program as of June 30, 2020, the project applicant must continue in that status until it is certified by the WSU Energy Program, or its precertification expires.

Community solar projects that are in precertification status under the Production Incentive Program as of June 30, 2020, may not apply for precertification for that same project under the Community Solar Expansion Program that begins July 1, 2022.

The made-in-Washington bonus rate under the Production Incentive Program is removed for renewable energy systems certified in fiscal years 2020 and 2021. The fiscal year 2021 base rates for residential scale, commercial scale, and shared commercial solar are also removed.

A participant must retire the nonpower attributes of a renewable energy system-- rather than being able to keep, sell, or transfer them-- in the case of a utility-owned community solar or shared commercial solar project.

The Joint Legislative Audit and Review Committee (JLARC) must again review the public utility tax credit and incentives provided under the Production Incentive Program as part of its 2023 tax preference reviews, as was done in 2021.

Community Solar Expansion Program.

The WSU Energy Program is authorized to administer and implement a new community solar incentive program that provides up to \$20 million in payments for the purpose of providing direct benefits to low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers (Community Solar Expansion Program).

Beginning July 1, 2022, through June 30, 2033, an administrator of an eligible community solar project (administrator) may apply to the WSU Energy Program to receive a precertification for the project. An administrator may be a utility, nonprofit, tribal housing authority, or other local housing authority. If after reviewing the application, the WSU Energy Program certifies a project, the utility serving the site of a community solar project is authorized to remit a one-time low-income community solar incentive payment to the administrator. The administrator accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers. Qualified subscribers are low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers. For tribal and public agencies, only that portion of their subscription to a community solar project that demonstrates benefits to low-income beneficiaries is considered qualified.

A utility's participation in the Community Solar Expansion Program is voluntary.

Incentive Payments and Compensation for Community Solar Projects Under the Community Solar Expansion Program.

The WSU Energy Program may certify community solar projects to receive one-time incentive payments in a total statewide amount not to exceed \$20 million and subject to the following dollar limits:

- for fiscal year 2023, \$300,000; and
- for each biennium beginning on or after July 1, 2023, \$5 million.

Of the \$20 million authorized for low-income community solar incentive payments:

- \$2 million must be 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; and

- \$2 million must be available to tribal governments and their designated subdivisions and agencies.

The WSU Energy Program must attempt to equitably distribute incentive funds throughout the state.

The one-time low-income community solar incentive payment equals the sum of:

- 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
- 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, considering any federal tax credits or other grants or incentives that the program is benefitting from. The installed cost includes only the renewable energy system components and fees that are integral and necessary for the generation of electricity, such as solar modules and inverters, labor, and sales tax, but does not include components such as roofing and energy storage.

In addition to the one-time low-income community solar incentive payment, a participating utility must also provide the administrator of a community solar project the following compensation for the generation of electricity from the certified project:

- for a community solar project that has an alternating current nameplate capacity greater than 12 kilowatts (kW) but no greater than 100 kW, and that is connected behind the electric service meter, compensation must be determined in accordance with the state's net metering requirements and provided to the metered customer receiving service at the situs of the meter; and
- for all other community solar projects, compensation must be determined at a value set by the participating utility and paid to the administrator or subscribers according to the agreement between the project and the utility.

An administrator may deduct ongoing administrative costs from compensation provided from power generation, provided these costs are in the subscription agreement or justified to the WSU Energy Program. The WSU Energy Program must review these cost justifications and approve, reject, or negotiate changes to the proposal.

If the utility provides compensation for the generation of electricity to the administrator, the administrator must provide that compensation to the project subscribers.

Project Certification and Incentive Payment Process.

Prior to obtaining certification, the administrator of an eligible community solar project must apply for precertification against the funds available for incentive payments under the Community Solar Expansion Program to be guaranteed a low-income community solar incentive

payment. The application for precertification must include, at a minimum:

- a demonstration of how the project will deliver direct benefits to low-income subscribers; and
- any other information the WSU Energy Program deems necessary in determining eligibility for precertification.

The WSU Energy Program must collect a one-time fee for precertification applications of \$500 per applicant. The WSU Energy Program must deposit all revenue from this fee into the State General Fund. Projects with precertification applications approved by the WSU Energy Program have two years to complete their projects and apply for full certification, but if they have not completed certification within this timeframe, they may apply to the WSU Energy Program for up to a 180-day extension.

An administrator must complete their application within less than two years of being approved for precertification status and must provide a project update to the WSU Energy Program after one year. The certification application must include certain specified information, including a signed statement of the total project costs, available system operation data such as estimated shading, and any other information the WSU Energy Program deems necessary for the review.

The WSU Energy Program must review each project for reasonable cost and financial structure, with a targeted installed cost of \$2 per watt direct current for systems over 200 (kW) and \$2.25 per watt direct current for systems under 200 kilowatts. The WSU Energy Program may approve an application for a project that costs more or less than this targeted installed cost based on a review of the project, documents submitted by the project applicant, and available data. Project cost evaluations must exclude costs associated with energy storage systems and electrical system improvements to permit grid-independent operation. The WSU Energy Program may review the cost per watt target prior to each fiscal biennium and is authorized to determine a new cost per watt target.

Within 30 days of receiving a certification application, the WSU Energy Program must let the utility serving the site of the project know whether certification has been granted. Within 60 days of receiving this notification, this utility must remit the applicable low-income community solar incentive payment to the project administrator for the purpose of providing direct benefits to the project's qualifying subscribers.

If the project is transferred to a new owner, certification stays with the project if certain conditions are met. During the first 10 years of certification, if a qualified subscriber stops participating in the project, participation must be transferred to a new qualifying subscriber. If a low-income subscriber moves to a new home within 10 years of certification, the subscriber may continue the subscription if the new household premise is served by the same utility that serves the community solar project.

The nonpower attributes of the project must be retired on behalf of the individual subscribers.

No certification may be issued by the WSU Energy Program under the Community Solar Expansion Program after June 30, 2035.

Community Solar Project Eligibility Requirements.

To receive certification for a low-income community solar incentive payment beginning July 1, 2022, a community solar project must meet various requirements, including:

- the community solar project must have a direct current nameplate capacity that is greater than 12 kW but no greater than 199 kW, and must have at least two subscribers or one low-income service provider subscriber;
- the administrator must verify that subscribers meet the definition of low-income. An entity with authority to maintain the confidentiality of the income status of the qualified subscriber must provide the administrator with this verification. If this entity incurs costs to verify low-income status, the administrator must reimburse the entity for those costs; and
- the project must be located on "preferred sites," meaning 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.

Reporting.

The WSU Energy Program must post and update a report on its website at least every month that includes, by utility:

- The number of certifications issued for community solar projects; and
- an estimate of the amount of credit that has not been allocated for low-income community solar incentive payments and that remains available for new community solar project certifications.

Public Utility Tax Credits.

Legacy Program and Production Incentive Program.

No public utility tax credits may be earned after June 30, 2029, and no credits may be claimed after June 30, 2030, for the following: (1) Renewable energy systems, other than community solar projects, that are certified for an incentive payment by June 30, 2020; and (2) community solar and shared commercial projects that are under precertification status by June 30, 2020, and that are certified by June 30, 2022, under the Production Incentive Program.

Community Solar Expansion Program.

Beginning July 1, 2022, an electric utility is allowed a credit against its public utility tax obligations in an amount equal to low-income community solar incentive payments made under the Community Solar Expansion Program. The credit for the fiscal year may not exceed 1.5 percent of the business's taxable power sales generated in calendar year 2014 or \$250,000, whichever is greater. The credit may not exceed the tax that would otherwise be due. Refunds may not be granted in the place of credits. No credits may be earned after June 30, 2036, and credits may not be claimed after June 30, 2037.

The tax preferences created in the Community Solar Expansion Program are exempt from the requirement that a new tax preference must include a tax preference performance statement.

Appropriation: None.

Fiscal Note: Requested on January 7, 2022.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.