SENATE BILL REPORT
SB 5634

As of February 11, 2025

Title: An act relating to improving accessibility of community solar projects in Washington state.

Brief Description: Improving accessibility of community solar projects in Washington state.

Sponsors: Senators Lovelett, Chapman, Kauffman, Saldaña and Shewmake.

Brief History:
Committee Activity: Environment, Energy & Technology: 2/12/25.

Brief Summary of Bill

- Modifies the Washington State University Community Solar Expansion Program, including the size of eligible projects.
- Authorizes partial incentive payments during the precertification process and a power purchase agreement incentive for qualifying subscribers.
- Expands the types of community solar entities that must register with the Utilities and Transportation Commission to do business in the state to include all nonutility entities except for tribal governments or the sole low-income provider of a project.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Kimberly Cushing (786-7421)

Background: Community Solar Expansion Program. In 2022, the Legislature directed the Washington State University Extension Energy Program (WSU Energy Program) to implement and administer a community solar incentive program for the development of projects benefiting low-income individuals, low-income service providers, and qualifying tribal or public agencies. Administrators must be a utility, nonprofit, tribal housing authority

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or other local housing authority.

Utility participation in the Community Solar Expansion Program (Program) is voluntary. Those that participate must provide one-time incentive payments for administrative startup costs and the installed cost of the portion of the project that provides direct benefits to qualified subscribers. Incentive payments are not to exceed $100 million and are funded by a public utility tax credit. Utilities must also provide the compensation for the generation of electricity based on the system size and administrator.

Regulation of Community Solar Companies in Washington. In Washington, a community solar company must register with the Utilities and Transportation Commission (UTC) before engaging in business in the state. The UTC may require annual reporting requirements and fees for processing applications and regulation, and issue penalties against community solar companies for failure to register. Community solar projects services include both the electricity generated by the community solar project (project) and the financial benefits associated by the electricity. Community solar projects are limited in size to 1000 kilowatts (kW) of direct current electricity.

Summary of Bill: Community Solar Expansion Program. A number of changes are made to the Program. The definition of administrators is expanded to include affordable housing providers and federally-recognized Indian tribal governments whose traditional lands and territories include parts of the state that are eligible for funding. A tribal government may only administer a project on tribal lands or lands the U.S. holds in trust for subscribers who are tribal members.

The maximum allowable size of projects under the Program is increased from 199 kW to 999 kW. At least 50 percent of incentive payments must be reserved for projects that are 199 kW or smaller. Before receiving an incentive payment, projects greater than 199 kW and less than or equal to 999 kW must receive certification from the Department of Labor and Industries (L&I) that the project construction includes certain specified labor factors, which include:

- apprenticeship utilization;
- prevailing wage rates as determined by local collective bargaining; and
- a copy of the contractor's certificate of registration in compliance with state law for contractor registration, which must include five specified items.

If a business does not include one of these standards but a person demonstrates a good faith effort to comply, L&I may certify that they are in compliance.

The WSU Energy Program may annually adjust the targeted installation costs that are used to evaluate projects and may request additional justification for any project costs it deems unreasonable. The WSU Energy Program may additionally evaluate the interconnection costs and distribution system improvements required to meet utility interconnection standards when approving a project.

Additional Incentive Payments Under the Program. Two additional opportunities for incentive payments are provided under the Program: a project precertification incentive payment and a power purchase agreement incentive.

The WSU Energy Program may provide partial incentive payments if a project is precertified, instead of only after a project is certified, for projects that are not administered by a utility. A precertification incentive payment must be for 50 percent of project costs, and the remaining 50 percent must be provided when the project is certified. Administrators may adjust cost estimates for projects and the WSU Energy Program has approval authority for cost increases. The WSU Energy Program may not reject approved precertification costs unless it determines there are material changes to the project design that eliminate the need for the costs.

If a project receives a precertification incentive payment and is not certified by the WSU Energy Program within two years; is certified for a lesser incentive payment than was provided; or does not provide direct benefits to the qualifying subscribers, the administrator must remit funding back to the WSU Energy Program within 30 days of being notified by the WSU Energy Program to do so. The remitted funding must be the full incentive amount, with interest. The interest rate is the same as for delinquent excise taxes, and is assessed retroactively to the date the credit was claimed until the full amount of all amounts due are repaid.

When a utility is an administrator and does not own a community solar project but is purchasing power from a third party, the incentive payment must equal the cost for the utility to purchase power and corresponding renewable energy credits (RECs) from the community solar project for ten years or until funding has been fully distributed, whichever comes later. This incentive payment is just for the portion of the project that provides direct benefits to qualifying subscribers over those ten years. All RECs must be retired on behalf of program participants or participants must be compensated for additional value from RECs. Utilities receiving such power purchase agreement incentives may not earn a rate of return on incentives certified by the WSU Energy Program. The WSU Energy Program must ensure that no more than 35 percent of available funding is provided to utilities to administer projects through power purchase agreements.

Administrator Deductions from Compensation for Generated Electricity. The WSU Energy Program must approve, rather than receive a justification for, the administrative and maintenance costs that an administrator deducts from the compensation provided to subscribers for a project's generated electricity. Administrators may deduct costs from the incentive payment for unplanned maintenance or repair. If an administrator requests a change in the administration or maintenance cost deduction, subscribers must be provided notice of the fee change and a reason for the change.

Reporting Under the Program. The WSU Energy Program must report to the Legislature

every even-numbered year starting in fiscal year 2026. The report must include the number of projects certified, number of subscribers per project, and total benefits from all projects.

Additional Provisions. The verification that an individual household subscriber meets the definition of low-income may be done in the form of self-attestation.

Utilities are encouraged to participate in the Program by applying eligible costs and tax credits to the requirement to make energy assistance and funding available to low-income households under the Clean Transformation Act.

Regulation of Community Solar Companies in Washington. The community solar companies that must register with the UTC to do business in the state are expanded to include: organizations and community solar cooperatives, in addition to a corporation, and any entity providing community solar project services. The only entities that are not considered community solar companies are utilities, tribal governments, or the sole participating low-income service provider of a project. The cap on the size of a community solar project is removed.

Community solar project services are redefined to specifically include:

- marketing project subscriptions;
- collecting funds to pay for a portion of a project or to purchase, subscribe to, or compensate for benefits from a project's output;
- enrolling subscribers or participants;
- administering energy and financial benefits; and
- soliciting or entering into interconnection contracts for community solar projects.

Appropriation: None.

Fiscal Note: Requested on February 1, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.