
SECOND SUBSTITUTE HOUSE BILL 1814

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)

1 AN ACT Relating to expanding equitable access to the benefits of
2 renewable energy through community solar projects; amending RCW
3 82.16.130 and 82.16.170; adding new sections to chapter 82.16 RCW;
4 creating new sections; providing expiration dates; and declaring an
5 emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds and declares that
8 stimulating local investment in community solar projects continues to
9 be an important part of a state energy strategy by helping to
10 increase energy independence from fossil fuels, promote economic
11 development, hedge against the effects of climate change, and attain
12 environmental benefits. The legislature finds that although previous
13 community solar programs were successful in stimulating these
14 benefits, the programs failed to provide an adequate framework for
15 low-income participation and long-term market certainty. The
16 legislature finds that the vast majority of Washingtonians still do
17 not have access to the benefits of solar energy. The legislature
18 intends to stimulate the deployment of community solar projects for
19 the benefit of all Washingtonians by funding the renewable energy
20 production incentive program for community solar projects and by
21 creating opportunities for broader participation, especially by low-

1 income households and low-income service providers. As of December
2 2021, the state is 10.3 megawatts short of the 115 megawatts of solar
3 photovoltaic capacity established as a goal under RCW 82.16.155. The
4 legislature therefore intends to provide an incentive sufficient to
5 promote installation of community solar projects through June 30,
6 2033, at which point the legislature expects to review the
7 effectiveness of enhancing access to community solar projects.

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

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

12 (a) Incentive payments made in any fiscal year under RCW
13 82.16.120 and 82.16.165; and

14 (b) Any fees a utility is allowed to recover pursuant to RCW
15 82.16.165(5).

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

22 (a) Renewable energy systems, other than community solar
23 projects, that are certified for an incentive payment as of June 30,
24 2020; and

25 (b) Community solar and shared commercial projects that are under
26 precertification status under RCW 82.16.165(7)(b) as of June 30,
27 2020, and that are certified for an incentive payment in accordance
28 with the terms of that precertification by June 30, 2022.

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

33 (4) For any business that has claimed credit for amounts that
34 exceed the correct amount of the incentive payable under RCW
35 82.16.120, 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 due 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 must be assessed at the rate provided
2 for delinquent excise taxes under chapter 82.32 RCW, retroactively to
3 the 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 RCW
8 82.16.165(20), if such amounts are later found to be abnormal or
9 inaccurate due 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 RCW 82.16.120 expires June 30, 2020. Credits may not be claimed
15 after June 30, 2021.

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

18 (i) Renewable energy systems, other than community solar
19 projects, that are certified for an incentive payment as of June 30,
20 2020; and

21 (ii) Community solar and shared commercial projects that are
22 under precertification status under RCW 82.16.165(7)(b) as of June
23 30, 2020, and that are certified for an incentive payment in
24 accordance with the terms of that precertification by June 30, 2022.

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

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

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

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

33 (2) The credits must be taken in a form and manner as required by
34 the department. The credit taken under this section for the fiscal
35 year may not exceed 1.5 percent of the business's taxable power sales
36 generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or
37 \$250,000, whichever is greater, for incentive payments made for
38 community solar projects that submit an application for
39 precertification under section 5 of this act on or after July 1,

1 2022, and that are certified for an incentive payment in accordance
2 with the terms of that precertification by June 30, 2033.

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

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

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

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

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

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

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

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

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

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

38 (ii) A tribal housing authority may only administer a community
39 solar project on tribal lands or lands held in trust for a federally

1 recognized tribe by the United States for subscribers who are tribal
2 members.

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

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

13 (A) Has a direct current nameplate capacity that is greater than
14 12 kilowatts but no greater than 1,000 kilowatts;

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

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

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

21 (d) "Consumer-owned utility" has the same meaning as in RCW
22 19.280.020.

23 (e) "Electric utility" or "utility" means a consumer-owned
24 utility or investor-owned utility as those terms are defined in RCW
25 19.280.020.

26 (f) "Energy assistance" has the same meaning as provided in RCW
27 19.405.020.

28 (g) "Energy burden" has the same meaning as provided in RCW
29 19.405.020.

30 (h) "Governing body" has the same meaning as provided in RCW
31 19.280.020.

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

35 (A) Solar modules and inverters;

36 (B) Battery systems;

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

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

4 (E) Labor; and

5 (F) Sales tax.

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

9 (j) "Low-income" has the same meaning as provided in RCW
10 19.405.020.

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

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

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

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

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

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

38 (ii) For tribal agency subscribers and public agency subscribers,
39 only the portion of their subscription to a community solar project
40 that is demonstrated to benefit low-income beneficiaries, including

1 low-income service providers and services provided to low-income
2 citizens or households, is to be considered a qualifying subscriber.

3 (q) "Retail electric customer" has the same meaning as in RCW
4 80.60.010.

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

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

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

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

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

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

37 (a) An amount, not to exceed \$20,000 per community solar project,
38 equal to the community solar project's administrative costs related

1 to the administrative start-up of the project for qualifying
2 subscribers; and

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

9 (3) No new certification may be issued under this section for a
10 community solar project that was certified under RCW 82.16.120 or
11 82.16.165, or for a community solar project served by a utility that
12 has elected not to participate in the incentive program provided in
13 this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (a) The utility may terminate its voluntary participation in the
26 program by providing notice in writing to the Washington State
27 University extension energy program to cease accepting new
28 applications for precertification for community solar projects that
29 would be served by that utility. Such notice of termination of
30 participation is effective after 15 days, at which point the
31 Washington State University extension energy program may not accept
32 new applications for precertification for community solar projects
33 that would be served by that utility.

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

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

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

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

9 (ii) For each biennium beginning on or after July 1, 2023,
10 \$25,000,000.

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

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

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

38 (e) The Washington State University extension energy program
39 shall regularly publish and update guidelines for how it manages the

1 allocation of available funding, based on the evaluation of
2 applications and the factors specified in (b) of this subsection.

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

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

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

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

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

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

32 (a) A signed statement that the applicant has not previously
33 received a notice of eligibility from the department under RCW
34 82.16.120 or the Washington State University extension energy program
35 under RCW 82.16.165 entitling the applicant to receive annual
36 incentive payments for electricity generated by the community solar
37 project at the same meter location;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (b) Within 60 days of receipt of a notification under (a) of this
37 subsection, the utility serving the site of the community solar
38 project must remit the applicable one-time low-income community solar
39 incentive payment to the project administrator, who accepts the

1 payment on behalf of, and for the purpose of providing direct
2 benefits to, the project's qualifying subscribers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (a) The administrator of the community solar project must be a
2 utility, nonprofit, or tribal housing authority that administers a
3 community solar project on tribal lands or lands held in trust for a
4 federally recognized tribe by the United States for subscribers who
5 are tribal members, or other local housing authority. The
6 administrator of the community solar project must apply for
7 precertification under section 5 of this act on or after July 1,
8 2022;

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

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

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

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

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

37 (g) The administrator must include in the application for
38 precertification a project prospectus that demonstrates how the
39 administrator intends to provide direct benefits to qualifying

1 subscribers for the duration of their subscription to the community
2 solar project; and

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

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

10 ~~((4))~~ (5) The administrator of a community solar project may
11 establish a reasonable fee to cover costs incurred in organizing and
12 administering the community solar project. Project participants,
13 prior to making the commitment to participate in the project, must be
14 given clear and conspicuous notice of the portion of the incentive
15 payment that will be used for this purpose.

16 ~~((5))~~ (6) The administrator of a community solar project must
17 maintain and update annually through June 30, 2030, the following
18 information for each project it operates or administers:

19 (a) Ownership information;

20 (b) Contact information for technical management questions;

21 (c) Business address;

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

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

26 ~~((6))~~ (7) The administrator of a community solar project must
27 provide the information required in subsection ~~((5))~~ (6) of this
28 section to the Washington State University extension energy program
29 at the time it submits the applications allowed under RCW
30 82.16.165(1) and section 5 of this act.

31 ~~((7))~~ (8) The administrator of a community solar project must
32 provide each project participant with a disclosure form containing
33 all material terms and conditions of participation in the project,
34 including but not limited to the following:

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

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

4 (c) All recurring and nonrecurring charges;

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

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

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

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

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

13 (~~(8)~~) (9) A utility may not adopt rates, terms, conditions, or
14 standards that unduly or unreasonably discriminate between utility-
15 administered community solar projects and those administered by
16 another entity.

17 (~~(9)~~) (10) A public utility district that is engaged in
18 distributing electricity to more than one retail electric customer in
19 the state and a joint operating agency organized under chapter 43.52
20 RCW on or before January 1, 2017, may enter into an agreement with
21 each other to construct and own a community solar project that is
22 located on property owned by a joint operating agency or on property
23 that receives electric service from a participating public utility
24 district. Each participant of a community solar project under this
25 subsection must be a customer of at least one of the public utility
26 districts that is a party to the agreement with a joint operating
27 agency to construct and own a community solar project.

28 (~~(10)~~) (11) The Washington utilities and transportation
29 commission must publish, without disclosing proprietary information,
30 a list of the following:

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

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

36 (~~(11)~~) (12) If a consumer-owned utility opts to provide a
37 community solar program or contracts with a nonutility administrator
38 to offer a community solar program, the governing body of the
39 consumer-owned utility must publish, without disclosing proprietary

1 information, a list of the nonutility administrators contracted by
2 the utility as part of its community solar program.

3 ~~((12))~~ (13) Except for parties engaged in actions and
4 transactions regulated under laws administered by other authorities
5 and exempted under RCW 19.86.170, a violation of this section
6 constitutes an unfair or deceptive act in trade or commerce in
7 violation of chapter 19.86 RCW, the consumer protection act. Acts in
8 violation of chapter 36, Laws of 2017 3rd sp. sess. are not
9 reasonable in relation to the development and preservation of
10 business, and constitute matters vitally affecting the public
11 interest for the purpose of applying the consumer protection act,
12 chapter 19.86 RCW.

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

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

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

19 NEW SECTION. Sec. 8. This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of
21 the state government and its existing public institutions, and takes
22 effect immediately.

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