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**SECOND SUBSTITUTE HOUSE BILL 1814**

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AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

**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)

READ FIRST TIME 02/23/22.

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 Washington power sales generated in calendar year  
20 2014 and due under RCW 82.16.020(1)(b) or two hundred fifty thousand  
21 dollars, whichever is greater, for incentive payments made for the  
22 following:

23 (a) Renewable energy systems, other than community solar  
24 projects, that are certified for an incentive payment as of June 30,  
25 2020; and

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

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. Expenditures not used to earn a credit in one fiscal year  
33 may not be used to earn a credit in subsequent years.

34 (4) For any business that has claimed credit for amounts that  
35 exceed the correct amount of the incentive payable under RCW  
36 82.16.120, the amount of tax against which credit was claimed for the  
37 excess payments is immediately due and payable. The department may  
38 deduct amounts due from future credits claimed by the business.

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

7 (b) A business is not liable for excess payments made in reliance  
8 on amounts reported by the Washington State University extension  
9 energy program as due and payable as provided under RCW  
10 82.16.165(20), if such amounts are later found to be abnormal or  
11 inaccurate due to no fault of the business.

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

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

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

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

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

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

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

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

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

35 (2) The credits must be taken in a form and manner as required by  
36 the department. The credit taken under this section for the fiscal  
37 year may not exceed 1.5 percent of the business's taxable Washington  
38 power sales generated in calendar year 2014 and due under RCW  
39 82.16.020(1)(b) or \$250,000, whichever is greater, for incentive

1 payments made for community solar projects that submit an application  
2 for precertification under section 5 of this act on or after July 1,  
3 2022, and that are certified for an incentive payment in accordance  
4 with the terms of that precertification by June 30, 2033.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (A) Has a direct current nameplate capacity that is greater than  
16 12 kilowatts but no greater than 199 kilowatts;

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

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

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

23 (d) "Consumer-owned utility" has the same meaning as in RCW  
24 19.280.020.

25 (e) "Electric utility" or "utility" means a consumer-owned  
26 utility or investor-owned utility as those terms are defined in RCW  
27 19.280.020.

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

30 (g) "Energy burden" has the same meaning as provided in RCW  
31 19.405.020.

32 (h) "Governing body" has the same meaning as provided in RCW  
33 19.280.020.

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

37 (A) Solar modules and inverters;

38 (B) Battery systems;

39 (C) Balance of system, such as racking, wiring, switch gears, and  
40 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) "Interconnection customer" means the person, corporation,  
10 partnership, government agency, or other entity that proposes to  
11 interconnect, or has executed an interconnection agreement, with the  
12 electric utility.

13 (k) "Low-income" has the same meaning as provided in RCW  
14 19.405.020.

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

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

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

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

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

38 (q)(i) Except as otherwise provided in (q)(ii) of this  
39 subsection, "qualifying subscriber" means a low-income subscriber,

1 low-income service provider subscriber, tribal agency subscriber, or  
2 public agency subscriber.

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

8 (r) "Retail electric customer" has the same meaning as in RCW  
9 80.60.010.

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

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

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

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

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

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

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

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

14 (3) No new certification may be issued under this section for a  
15 community solar project that was certified under RCW 82.16.120 or  
16 82.16.165, or for a community solar project served by a utility that  
17 has elected not to participate in the incentive program provided in  
18 this section.

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

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

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

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

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

39 (iv)(A) When the administrator of a community solar project  
40 receives compensation for the generation of electricity from a

1 participating utility, interconnection customer, or from the retail  
2 electric customer that is the host for the community solar project,  
3 the administrator must provide all of that compensation as a direct  
4 benefit to the project subscribers, except as described in (iv)(B) of  
5 this subsection.

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

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

- 23 (i) The energy production for the period for which compensation  
24 is to be provided;
- 25 (ii) Each subscriber's units of the project;
- 26 (iii) The amount disbursed to each subscriber for the period; and
- 27 (iv) The date and amount disbursed to each subscriber.

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

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

39 (b) Upon receiving a utility's notice of termination of  
40 participation in the incentive program, the Washington State

1 University extension energy program must report on its website that  
2 community solar project customers of that utility are no longer  
3 eligible to receive new certifications under the program.

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

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

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

12 (ii) For each biennium beginning on or after July 1, 2023,  
13 \$25,000,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (b) Within 60 days of receipt of a notification under (a) of this  
40 subsection, the utility serving the site of the community solar

1 project must remit the applicable one-time low-income community solar  
2 incentive payment to the project administrator, who accepts the  
3 payment on behalf of, and for the purpose of providing direct  
4 benefits to, the project's qualifying subscribers.

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

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

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

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

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

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

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

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

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

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

38 (17) All lists, technical specifications, determinations, and  
39 guidelines developed under this section must be made publicly

1 available online by the Washington State University extension energy  
2 program.

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

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

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

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

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

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

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

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

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

4       (a) The administrator of the community solar project must be a  
5 utility, nonprofit, or tribal housing authority that administers a  
6 community solar project on tribal lands or lands held in trust for a  
7 federally recognized tribe by the United States for subscribers who  
8 are tribal members, or other local housing authority. The  
9 administrator of the community solar project must apply for  
10 precertification under section 5 of this act on or after July 1,  
11 2022;

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

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

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

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

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

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

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

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

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

19 ~~((5))~~ (6) The administrator of a community solar project must  
20 maintain and update annually through June 30, 2030, the following  
21 information for each project it operates or administers:

22 (a) Ownership information;

23 (b) Contact information for technical management questions;

24 (c) Business address;

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

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

29 ~~((6))~~ (7) The administrator of a community solar project must  
30 provide the information required in subsection ~~((5))~~ (6) of this  
31 section to the Washington State University extension energy program  
32 at the time it submits the applications allowed under RCW  
33 82.16.165(1) and section 5 of this act.

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

38 (a) Plain language disclosure of the terms under which the  
39 project participant's share of any incentive payment will be

1 calculated by the Washington State University extension energy  
2 program (~~over the life of the contract~~);

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

6 (c) All recurring and nonrecurring charges;

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

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

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

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

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

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

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

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

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

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

38 (~~(11)~~) (12) If a consumer-owned utility opts to provide a  
39 community solar program or contracts with a nonutility administrator  
40 to offer a community solar program, the governing body of the

1 consumer-owned utility must publish, without disclosing proprietary  
2 information, a list of the nonutility administrators contracted by  
3 the utility as part of its community solar program.

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

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

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

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

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

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