

HOUSE BILL REPORT

ESSB 6658

As Passed House - Amended:
March 11, 2010

Title: An act relating to modifying community solar project provisions for investment cost recovery incentives.

Brief Description: Modifying community solar project provisions for investment cost recovery incentives.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Rockefeller, Morton and Pridemore).

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/18/10, 2/22/10 [DPA].

Floor Activity:

Passed House - Amended: 3/11/10, 96-1.

**Brief Summary of Engrossed Substitute Bill
(As Amended by House)**

- Establishes a maximum electricity generating capacity of 75 kilowatts for community solar projects.
- Requires all renewable energy systems participating in the Cost-recovery Incentive Payment Program to be located in Washington.
- Reduces the total public utility tax credit a light and power business is allowed under the Cost-recovery Incentive Payment Program from 1 percent of taxable sales to .5 percent of taxable sales.
- Allows certain limited liability companies, cooperative associations, and mutual corporations and associations to participate in the Cost-recovery Incentive Payment Program.
- Requires the Department of Revenue to report to the Legislature by December 1, 2014, on various impacts of the Cost-recovery Incentive Payment Program.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

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

Majority Report: Do pass as amended. Signed by 10 members: Representatives McCoy, Chair; Finn, Vice Chair; Carlyle, Eddy, Hasegawa, Hudgins, Jacks, Morris, Takko and Van De Wege.

Minority Report: Do not pass. Signed by 6 members: Representatives Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Hinkle, McCune, Nealey and Taylor.

Staff: Scott Richards (786-7156).

Background:

In 2005 the Legislature created a Cost-recovery Incentive Payment Program (Program) to promote renewable energy systems that produce electricity from solar, wind, or anaerobic digesters. An individual, business, or local government purchasing an eligible system can apply for an incentive payment from the electric utility serving the applicant. The incentive provides at least 15 cents for each kilowatt-hour (kWh) of energy produced, with extra incentives for solar generating systems that use components manufactured in Washington. Payments are capped at \$5,000 annually per applicant.

In 2009 the Legislature expanded the Program to include community solar projects, which are either: (1) a solar energy system owned by local individuals, households, or non-utility businesses that is placed on the property owned by their cooperating local governmental entity; or (2) a utility-owned solar energy system that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project. Under current law, there are no electrical generation capacity limits established for individual community solar projects.

Community solar projects are eligible to receive incentives of 30 cents for each kWh of energy produced, unless the amount of requests for incentive payments exceeds the amount authorized for credit to the utility, in which case the incentive payments to applicants must be reduced proportionally. Payments to a community solar project are capped at \$5,000 annually per applicant. Incentive payments to participants in a utility-owned community solar project may only account for up to 25 percent of the total allowable credit.

A utility providing incentive payments is allowed a credit against its public utility tax for incentives paid, limited to \$100,000 or 1 percent of the utility's taxable power sales, whichever is greater. Incentive payments to participants in a utility-owned community solar project may only account for up to 25 percent of the total allowable credit.

The Cost-recovery Incentive Payment Program expires June 30, 2020.

Summary of Amended Bill:

Maximum Generating Capacity of a Community Solar Project.

Only community solar projects capable of generating up to 75 kilowatts (kW) of electricity may receive cost-recovery incentive payments.

Location of Renewable Energy Systems Receiving an Incentive Payment.

All renewable energy systems participating in the Cost-recovery Incentive Payment Program must be located in Washington.

Company-owned Community Solar Projects.

A company may own a community solar project and receive incentive payments. A company is defined to mean the following nonutility entities: (1) a limited liability company; (2) a cooperative association; or (3) a mutual corporation or association. The company's responsibilities include: (1) submitting the application to certify the community solar project on behalf of its members; (2) applying for the incentive payments on behalf of each member of the company; and (3) keeping and preserving records for five years as may be necessary to determine the amount of incentive applied for and received. A company-owned community solar project must be installed on the property of a cooperating local governmental entity that is not an electric or natural gas utility.

Incentive Payments to Community Solar Projects.

Where the applicant is an administrator of a community solar project, each owner is eligible for an incentive but only in proportion to the ownership share of the project, up to \$5,000 per year. Where the applicant is a company owning a community solar project that has applied for an investment cost recovery incentive on behalf of its members, each member of the company is eligible for an incentive but only in proportion to each ownership share of the company, up to \$5,000 per year. The company itself is not eligible for incentive payments. In the case of a utility-owned community solar project, each ratepayer that contributes to the project is eligible for an incentive in proportion to the contribution, up to \$5,000 per year.

Public Utility Tax Credits for Incentive Payments.

The total public utility tax credit a light and power business is allowed under the Cost-recovery Incentive Payment Program is limited to .5 percent of taxable sales or \$100,000, whichever is greater.

Limitation on Incentive Payments to Company-owned Community Solar Projects.

Incentive payments to participants in company-owned community solar projects are limited to up to 5 percent of the total allowable public utility tax credits.

Single Point of Contact for Community Solar Projects.

Owners of a community solar project that are not company-owned must appoint one owner as an administrator who is responsible for applying and receiving cost recovery incentive payments on behalf of the other owners. In the case of company-owned community solar projects, the company must apply for the incentive payments on behalf of each member of the company.

Community Solar Projects to Record Keeping.

Community solar project administrators and companies receiving incentive payments must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received.

Creates Hold-harmless Provisions Protecting Utilities.

The owners of community solar projects must hold harmless the utility and its employees for their good faith reliance on the information in a cost recovery application or certification. In addition, the utility and its employees are immune from civil liability for their good faith reliance on the information contained in such documents.

Reporting on the Impacts of Cost-recovery Incentive Payment Program.

The Department of Revenue must report to the appropriate committees of the Legislature by December 1, 2014, on various impacts of the Program. The report must include (1) the total number of solar energy system manufacturing companies in the state; (2) any changes in the number of solar energy manufacturing companies in the state since July 1, 2005, and, where relevant, the effect on job creation; (3) the number of jobs created for Washington residents; and (4) such other factors as the Department of Revenue selects.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on February 22, 2010.

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

Staff Summary of Public Testimony:

(In support) This bill reflects further refinements to concepts adopted last year that allowed for community solar projects. Since adoption of the community solar project provisions, it has been learned that there needs to be some limits imposed so that community solar projects happen in the state. There needs to be a cap on the size of community solar systems so that the program remains focused on distributed generation. However, there is a limited window of time allowed for systems larger than 100 kilowatts to qualify if these systems are constructed by the end of the year. This bill represents bold, sensible action that kick starts the solar industry in Washington and creates a means to put money back into local economies through job creation.

(Opposed) None.

Persons Testifying: Senator Rockefeller, prime sponsor; Joe Deets, Community Energy Solutions; Jason Twill, Vulcan Inc.; and Chris Van Dyle, No on 98.

Persons Signed In To Testify But Not Testifying: None.