

E2SHB 1144 - S COMM AMD

By Committee on Environment, Water & Energy

NOT CONSIDERED 05/25/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 82.16.110 and 2010 c 202 s 1 and 2010 c 106 s 225 are
4 each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Administrator" means an owner and assignee of a community
8 solar project as defined in subsection (2)(a)(i) of this section that
9 is responsible for applying for the investment cost recovery incentive
10 on behalf of the other owners and performing such administrative tasks
11 on behalf of the other owners as may be necessary, such as receiving
12 investment cost recovery incentive payments, and allocating and paying
13 appropriate amounts of such payments to the other owners.

14 (2)(a) "Community solar project" means:

15 (i) A solar energy system that is capable of generating up to
16 seventy-five kilowatts of electricity and is owned by local
17 individuals, households, nonprofit organizations, or nonutility
18 businesses that is placed on the property owned by a cooperating local
19 governmental entity (~~that~~), nonprofit food bank, or eligible
20 community or technical college, if it is not in the light and power
21 business or in the gas distribution business;

22 (ii) A utility-owned solar energy system that is capable of
23 generating up to seventy-five kilowatts of electricity and that is
24 voluntarily funded by the utility's members or ratepayers where, in
25 exchange for their financial support, the utility gives contributors a
26 payment or credit on their utility bill for the value of the
27 electricity produced by the project; or

28 (iii) A solar energy system, placed on the property owned by a
29 cooperating local governmental entity (~~that~~), nonprofit food bank, or
30 eligible community or technical college, if it is not in the light and

1 power business or in the gas distribution business, (~~that~~) and the
2 solar energy system is capable of generating up to seventy-five
3 kilowatts of electricity(~~7~~) and (~~that~~) is owned by a company whose
4 members are each eligible for an investment cost recovery incentive for
5 the same customer-generated electricity as provided in RCW 82.16.120.

6 (b) For the purposes of "community solar project" as defined in (a)
7 of this subsection:

8 (i) "Company" means an entity that is:

9 (A)(I) A limited liability company;

10 (II) A cooperative formed under chapter 23.86 RCW; or

11 (III) A mutual corporation or association formed under chapter
12 24.06 RCW; and

13 (B) Not a "utility" as defined in this subsection (2)(b); and

14 (ii) "Nonprofit organization" means an organization exempt from
15 taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
16 code of 1986, as amended, as of January 1, 2009; and

17 (iii) "Utility" means a light and power business, an electric
18 cooperative, or a mutual corporation that provides electricity service.

19 (3) "Customer-generated electricity" means a community solar
20 project or the alternating current electricity that is generated from
21 a renewable energy system located in Washington and installed on an
22 individual's, businesses', or local government's real property that is
23 also provided electricity generated by a light and power business.
24 Except for community solar projects, a system located on a leasehold
25 interest does not qualify under this definition. Except for utility-
26 owned community solar projects, "customer-generated electricity" does
27 not include electricity generated by a light and power business with
28 greater than one thousand megawatt hours of annual sales or a gas
29 distribution business.

30 (4) "Economic development kilowatt-hour" means the actual kilowatt-
31 hour measurement of customer-generated electricity multiplied by the
32 appropriate economic development factor.

33 (5) "Eligible community or technical college" means a community or
34 technical college defined in RCW 28B.50.030 that offers the following
35 credentials on the effective date of this section:

36 (a) An associate in applied arts and sciences degree in clean
37 energy technology; and

1 (b) A zero energy technology certificate emphasizing photovoltaic
2 system design.

3 (6) "Local governmental entity" means any unit of local government
4 of this state including, but not limited to, counties, cities, towns,
5 municipal corporations, quasi-municipal corporations, special purpose
6 districts, and school districts.

7 ~~((+6))~~ (7) "Photovoltaic cell" means a device that converts light
8 directly into electricity without moving parts.

9 ~~((+7))~~ (8) "Renewable energy system" means a solar energy system,
10 an anaerobic digester as defined in RCW 82.08.900, or a wind generator
11 used for producing electricity.

12 ~~((+8))~~ (9) "Solar energy system" means any device or combination
13 of devices or elements that rely upon direct sunlight as an energy
14 source for use in the generation of electricity.

15 ~~((+9))~~ (10) "Solar inverter" means the device used to convert
16 direct current to alternating current in a photovoltaic cell system.
17 A solar inverter must be listed by a nationally recognized testing
18 laboratory by January 1, 2012.

19 ~~((+10))~~ (11) "Solar module" means the smallest nondivisible self-
20 contained physical structure housing interconnected photovoltaic cells
21 and providing a single direct current electrical output. A solar
22 module must be listed by a nationally recognized testing laboratory by
23 January 1, 2012.

24 (12) "Stirling converter" means a device that produces electricity
25 by converting heat from a solar source utilizing a stirling engine. A
26 stirling converter must be listed by a nationally recognized testing
27 laboratory by January 1, 2012.

28 (13) "Solar inverter system" means a device assembled at the
29 manufacturing facility and ready for installation as part of a solar
30 energy system. A solar inverter system must contain a solar inverter
31 and, at a minimum, alternating current and direct current disconnects.
32 A solar inverter system must be listed by a nationally recognized
33 testing laboratory by January 1, 2012.

34 **Sec. 2.** RCW 82.16.120 and 2010 c 202 s 2 and 2010 c 106 s 103 are
35 each reenacted and amended to read as follows:

36 (1)(a) Any individual, business, local governmental entity, not in
37 the light and power business or in the gas distribution business, or a

1 participant in a community solar project may apply to the light and
2 power business serving the situs of the system, each fiscal year
3 beginning on July 1, 2005, for an investment cost recovery incentive
4 for each kilowatt-hour from a customer-generated electricity renewable
5 energy system.

6 (b) In the case of a community solar project as defined in RCW
7 82.16.110(2)(a)(i), the administrator must apply for the investment
8 cost recovery incentive on behalf of each of the other owners.

9 (c) In the case of a community solar project as defined in RCW
10 82.16.110(2)(a)(iii), the company owning the community solar project
11 must apply for the investment cost recovery incentive on behalf of each
12 member of the company.

13 (2)(a) Before submitting for the first time the application for the
14 incentive allowed under subsection (4) of this section, the applicant
15 must submit to the department of revenue and to the climate and rural
16 energy development center at the Washington State University,
17 established under RCW 28B.30.642, a certification in a form and manner
18 prescribed by the department that includes, but is not limited to, the
19 following information:

20 (i) The name and address of the applicant and location of the
21 renewable energy system.

22 (A) If the applicant is an administrator of a community solar
23 project as defined in RCW 82.16.110(2)(a)(i), the certification must
24 also include the name and address of each of the owners of the
25 community solar project.

26 (B) If the applicant is a company that owns a community solar
27 project as defined in RCW 82.16.110(2)(a)(iii), the certification must
28 also include the name and address of each member of the company;

29 (ii) The applicant's tax registration number;

30 (iii) That the electricity produced by the applicant meets the
31 definition of "customer-generated electricity" and that the renewable
32 energy system produces electricity with:

33 (A) Any solar inverters and solar modules manufactured in
34 Washington state;

35 (B) A wind generator powered by blades manufactured in Washington
36 state;

37 (C) A solar inverter manufactured in Washington state or solar
38 inverter system manufactured in Washington state;

1 (D) A solar module manufactured in Washington state; (~~or~~)

2 (E) A stirling converter manufactured in Washington state;

3 (F) Solar or wind equipment manufactured outside of Washington
4 state; or

5 (G) A wind generator with a generating capacity of no more than
6 five kilowatts;

7 (iv) That the electricity can be transformed or transmitted for
8 entry into or operation in parallel with electricity transmission and
9 distribution systems; and

10 (v) The date that the renewable energy system received its final
11 electrical permit from the applicable local jurisdiction.

12 (b) Within thirty days of receipt of the certification the
13 department of revenue must notify the applicant by mail, or
14 electronically as provided in RCW 82.32.135, whether the renewable
15 energy system qualifies for an incentive under this section. The
16 department may consult with the climate and rural energy development
17 center to determine eligibility for the incentive. System
18 certifications and the information contained therein are subject to
19 disclosure under RCW 82.32.330(3)(1).

20 (3)(a) (~~By August 1st of each year application for the incentive~~
21 ~~must be made to~~) If required by the light and power business serving
22 the situs of the system, persons receiving incentive payments must
23 apply to the light and power by August 1st of each year by
24 certification in a form and manner prescribed by the department that
25 includes, but is not limited to, the following information:

26 (i) The name and address of the applicant and location of the
27 renewable energy system.

28 (A) If the applicant is an administrator of a community solar
29 project as defined in RCW 82.16.110(2)(a)(i), the application must also
30 include the name and address of each of the owners of the community
31 solar project.

32 (B) If the applicant is a company that owns a community solar
33 project as defined in RCW 82.16.110(2)(a)(iii), the application must
34 also include the name and address of each member of the company;

35 (ii) The applicant's tax registration number;

36 (iii) The date of the notification from the department of revenue
37 stating that the renewable energy system is eligible for the incentives
38 under this section; and

1 (iv) A statement of the amount of kilowatt-hours generated by the
2 renewable energy system in the prior fiscal year.

3 (b) Within sixty days of receipt of the incentive certification the
4 light and power business serving the situs of the system must notify
5 the applicant in writing whether the incentive payment will be
6 authorized or denied. The business may consult with the climate and
7 rural energy development center to determine eligibility for the
8 incentive payment. Incentive certifications and the information
9 contained therein are subject to disclosure under RCW 82.32.330(3)(1).

10 (c)(i) Persons, administrators of community solar projects, and
11 companies receiving incentive payments must keep and preserve, for a
12 period of five years, suitable records as may be necessary to determine
13 the amount of incentive applied for and received. Such records must be
14 open for examination at any time upon notice by the light and power
15 business that made the payment or by the department. If upon
16 examination of any records or from other information obtained by the
17 business or department it appears that an incentive has been paid in an
18 amount that exceeds the correct amount of incentive payable, the
19 business may assess against the person for the amount found to have
20 been paid in excess of the correct amount of incentive payable and must
21 add thereto interest on the amount. Interest is assessed in the manner
22 that the department assesses interest upon delinquent tax under RCW
23 82.32.050.

24 (ii) If it appears that the amount of incentive paid is less than
25 the correct amount of incentive payable the business may authorize
26 additional payment.

27 (4) Except for community solar projects, the investment cost
28 recovery incentive may be paid fifteen cents per economic development
29 kilowatt-hour unless requests exceed the amount authorized for credit
30 to the participating light and power business. For community solar
31 projects, the investment cost recovery incentive may be paid thirty
32 cents per economic development kilowatt-hour unless requests exceed the
33 amount authorized for credit to the participating light and power
34 business. For the purposes of this section, the rate paid for the
35 investment cost recovery incentive may be multiplied by the following
36 factors:

37 (a) For customer-generated electricity produced using solar modules

1 or solar stirling converter manufactured in Washington state, two and
2 four-tenths;

3 (b) For customer-generated electricity produced using a solar or a
4 wind generator equipped with an inverter manufactured in Washington
5 state or solar inverter system manufactured in Washington state, one
6 and two-tenths;

7 (c) For customer-generated electricity produced using an anaerobic
8 digester, or by other solar equipment or using a wind generator
9 equipped with blades manufactured in Washington state, one; (~~and~~)

10 (d) For customer-generated electricity produced by a wind generator
11 with a generating capacity of no more than five kilowatts, two and
12 four-tenths; and

13 (e) For all other customer-generated electricity produced by wind,
14 eight-tenths.

15 (5)(a) No individual, household, business, or local governmental
16 entity is eligible for incentives provided under subsection (4) of this
17 section for more than five thousand dollars per year.

18 (b) Except as provided in (c) through (e) of this subsection (5),
19 each applicant in a community solar project is eligible for up to five
20 thousand dollars per year.

21 (c) Where the applicant is an administrator of a community solar
22 project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible
23 for an incentive but only in proportion to the ownership share of the
24 project, up to five thousand dollars per year.

25 (d) Where the applicant is a company owning a community solar
26 project that has applied for an investment cost recovery incentive on
27 behalf of its members, each member of the company is eligible for an
28 incentive that would otherwise belong to the company but only in
29 proportion to each ownership share of the company, up to five thousand
30 dollars per year. The company itself is not eligible for incentives
31 under this section.

32 (e) In the case of a utility-owned community solar project, each
33 ratepayer that contributes to the project is eligible for an incentive
34 in proportion to the contribution, up to five thousand dollars per
35 year.

36 (6) If requests for the investment cost recovery incentive exceed
37 the amount of funds available for credit to the participating light and

1 power business, (~~the incentive payments must be reduced~~
2 ~~proportionately~~)) no new applications may be approved for the light and
3 power business.

4 (7) The climate and rural energy development center at Washington
5 State University energy program may establish guidelines and standards
6 for technologies that are identified as Washington manufactured and
7 therefore most beneficial to the state's environment.

8 (8) The environmental attributes of the renewable energy system
9 belong to the applicant, and do not transfer to the state or the light
10 and power business upon receipt of the investment cost recovery
11 incentive.

12 (9) No incentive may be paid under this section for kilowatt-hours
13 generated before July 1, 2005, or after June 30, 2020.

14 **Sec. 3.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to read
15 as follows:

16 (1) A light and power business (~~shall be~~) is allowed a credit
17 against taxes due under this chapter in an amount equal to investment
18 cost recovery incentive payments made in any fiscal year under RCW
19 82.16.120. The credit (~~shall~~) must be taken in a form and manner as
20 required by the department. The credit under this section for the
21 fiscal year may not exceed one-half percent of the businesses' taxable
22 power sales due under RCW 82.16.020(1)(b) or one hundred thousand
23 dollars, whichever is greater. Incentive payments to participants in
24 a utility-owned community solar project as defined in RCW
25 82.16.110(2)(a)(ii) may only account for up to twenty-five percent of
26 the total allowable credit. Incentive payments to participants in a
27 company-owned community solar project as defined in RCW
28 82.16.110(2)(a)(iii) may only account for up to five percent of the
29 total allowable credit. The credit may not exceed the tax that would
30 otherwise be due under this chapter. Refunds (~~shall~~) may not be
31 granted in the place of credits. Expenditures not used to earn a
32 credit in one fiscal year may not be used to earn a credit in
33 subsequent years.

34 (2) For any business that has claimed credit for amounts that
35 exceed the correct amount of the incentive payable under RCW 82.16.120,
36 the amount of tax against which credit was claimed for the excess
37 payments (~~shall be~~) is immediately due and payable. The department

1 ((~~shall~~)) must assess interest but not penalties on the taxes against
2 which the credit was claimed. Interest ((~~shall be~~)) is assessed at the
3 rate provided for delinquent excise taxes under chapter 82.32 RCW,
4 retroactively to the date the credit was claimed, and ((~~shall~~)) accrues
5 until the taxes against which the credit was claimed are repaid.

6 (3) The right to earn tax credits under this section expires June
7 30, 2020. Credits may not be claimed after June 30, 2021."

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8 On page 1, line 2 of the title, after "program;" strike the
9 remainder of the title and insert "amending RCW 82.16.130; and
10 reenacting and amending RCW 82.16.110 and 82.16.120."

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