

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1814

67th Legislature
2022 Regular Session

Passed by the House March 10, 2022
Yeas 57 Nays 41

**Speaker of the House of
Representatives**

Passed by the Senate March 10, 2022
Yeas 29 Nays 20

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1814** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1814

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.

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

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

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

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

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

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

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

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

(8) This section expires June 30, 2033.

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

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

(2) The credits must be taken in a form and manner as required by the department. The credit taken under this section for the fiscal year may not exceed 1.5 percent of the business's taxable Washington power sales generated in calendar year 2014 and due under RCW 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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