

Proposed Substitute House Bill 1814

By Representative Shewmake

Original Bill: Expanding equitable access to the benefits of renewable energy through community solar projects.

Proposed Substitute (H-2466.1/22) compared to the House Bill 1814 (H-1947.2):

- Removes multiple sections that apply to community solar incentive programs that are now closed to new certifications;
- Removes the 2023 Joint Legislative Audit and Review Committee tax preference performance review requirement for the incentive program that had a tax preference review conducted in 2021;
- Adds a definition for “low-income” and amends the definition of “low-income service provider” to clarify that these service providers must provide services to low-income households as part of their core mission;
- Removes a \$500 preapplication fee;
- Adds “the amount of energy burden reduction for qualifying subscribers relative to the project’s cost” as an allowable precertification criteria;
- Clarifies that the Washington State University Extension Energy Program (WSU Energy Program) is the entity that determines whether community solar projects are sited on preferred sites;
- Requires that the subscription agreement clearly state that the administrator may deduct ongoing administrative costs from compensation provided from power generation;
- Allows the WSU Energy program to waive the \$2 million carveout requirements if they do not receive enough applications to fully allocate these funds, beginning in fiscal year 2026;
- Specifies that for utility-owned community solar projects, the utility may retain and retire the nonpower attributes if this is clearly stated in a contract between the subscriber that benefits the subscriber; and
- Corrects references.

Committee: House Environment & Energy Committee
Staff: Megan McPhaden (786-7114), Office of Program Research
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BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-2466.1/22

ATTY/TYPIST: CL:lcl

BRIEF DESCRIPTION: Expanding equitable access to the benefits of renewable energy through community solar projects.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (a) Except as provided in (b) of this subsection, the department
39 must assess interest but not penalties on the taxes against which the

1 credit was claimed. Interest must be assessed at the rate provided
2 for delinquent excise taxes under chapter 82.32 RCW, retroactively to
3 the date the credit was claimed, and accrues until the taxes against
4 which the credit was claimed are repaid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (i) Has a direct current nameplate capacity that is greater than
13 12 kilowatts but no greater than 199 kilowatts;

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

16 (iii) Meets the applicable eligibility requirements in section 5
17 of this act.

18 (d) "Consumer-owned utility" has the same meaning as in RCW
19 19.280.020.

20 (e) "Electric utility" or "utility" means a consumer-owned
21 utility or investor-owned utility as those terms are defined in RCW
22 19.280.020.

23 (f) "Energy assistance" has the same meaning as provided in RCW
24 19.405.020.

25 (g) "Energy burden" has the same meaning as provided in RCW
26 19.405.020.

27 (h) "Governing body" has the same meaning as provided in RCW
28 19.280.020.

29 (i)(i) "Installed cost" includes only the renewable energy system
30 components and fees that are integral and necessary for the
31 generation of electricity. Components and fees include:

32 (A) Solar modules and inverters;

33 (B) Balance of system, such as racking, wiring, switch gears, and
34 meter bases;

35 (C) Nonhardware costs incurred up to the date of the final
36 electrical inspection, such as fees associated with engineering,
37 permitting, interconnection, and application;

38 (D) Labor; and

39 (E) Sales tax.

1 (ii) "Installed cost" does not include structures and fixtures
2 that are not integral and necessary to the generation of electricity,
3 such as carports, roofing, and energy storage.

4 (j) "Low-income" has the same meaning as provided in RCW
5 19.405.020.

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

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

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

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

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

29 (p)(i) Except as otherwise provided in (p)(ii) of this
30 subsection, "qualifying subscriber" means a low-income subscriber,
31 low-income service provider subscriber, tribal agency subscriber, or
32 public agency subscriber.

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

38 (q) "Subscriber" means a retail electric customer of an electric
39 utility who owns or is the beneficiary of one or more units of a

1 community solar project directly interconnected with that same
2 utility.

3 (r) "Subscription" means an agreement between a subscriber and
4 the administrator of a community solar project.

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

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

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

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

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

35 (b) An amount that does not exceed 100 percent of the
36 proportional cost of the installed cost of the share of the community
37 solar project that provides direct benefits to qualifying
38 subscribers, taking into account any federal tax credits or other

1 federal or nonfederal grants or incentives that the program is
2 benefiting from.

3 (3) No new certification may be issued under this section for a
4 community solar project that was certified under RCW 82.16.120 or
5 82.16.165, or for a community solar project served by a utility that
6 has elected not to participate in the incentive program provided in
7 this section.

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

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

16 (i) For a community solar project that has an alternating current
17 nameplate capacity greater than 12 kilowatts but no greater than 100
18 kilowatts, and that is connected behind the electric service meter,
19 compensation must be determined in accordance with RCW 80.60.020 and
20 provided to the metered customer receiving service at the situs of
21 the meter.

22 (ii) For all other community solar projects, compensation must be
23 determined at a value set by the participating utility and paid to
24 the administrator or subscribers according to the agreement between
25 the project and the utility.

26 (iii) An administrator may deduct ongoing administrative costs
27 from compensation provided from power generation, provided those
28 costs are identified in the subscription agreement or justified to
29 the Washington State University extension energy program. The
30 Washington State University extension energy program shall review any
31 such administrative costs justifications for reasonableness and
32 approve, reject, or negotiate changes to the proposal. An
33 administrator may request a change in the deduction for
34 administrative costs to the Washington State University extension
35 energy program only if the subscription agreement includes language
36 notifying the subscriber that administrative fees are subject to
37 change.

38 (b) If the utility provides compensation for the generation of
39 electricity to the administrator, the administrator of a community
40 solar project must provide that compensation to the project

1 subscribers. For 10 years after certification, and by March 1st of
2 each year following certification, the provider of compensation for
3 the generation of electricity to the subscriber, whether the utility
4 or the administrator, but not both, must provide the Washington State
5 University extension energy program with signed statements of the
6 following for the preceding year:

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

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

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

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

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

14 (a) The utility may terminate its voluntary participation in the
15 program by providing notice in writing to the Washington State
16 University extension energy program to cease accepting new
17 applications for precertification for community solar projects that
18 would be served by that utility. Such notice of termination of
19 participation is effective after 15 days, at which point the
20 Washington State University extension energy program may not accept
21 new applications for precertification for community solar projects
22 that would be served by that utility.

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

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

31 (7)(a) The Washington State University extension energy program
32 may issue certifications authorizing incentive payments under this
33 section in a total statewide amount not to exceed \$20,000,000, and
34 subject to the following biennial dollar limits:

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

36 (ii) For each biennium beginning on or after July 1, 2023,
37 \$5,000,000.

38 (b) The Washington State University extension energy program must
39 attempt to equitably distribute incentive funds throughout the state.
40 Considerations for equitable fund distribution, based on

1 precertification applications received from administrators served by
2 utilities voluntarily participating in the program, may include
3 measures to reserve or allocate available funds based on the
4 proportion of public utility taxes collected, the proportion of the
5 state's low-income customers served by each utility based on low-
6 income home energy assistance program data at the department of
7 commerce, measures to achieve an equitable geographic distribution of
8 community solar installations and a diversity of administrative
9 models for community solar projects, and the amount of energy burden
10 reduction for qualifying subscribers relative to the project's cost.
11 If an equitable distribution of funds is not feasible due to a lack
12 of precertification applications, the Washington State University
13 extension energy program may allocate funds based on (a) of this
14 subsection on a first-come, first-served basis.

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

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

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

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

34 (8)(a) Prior to obtaining certification under this section, the
35 administrator of a community solar project must apply for
36 precertification against the funds available for incentive payments
37 under subsection (7) of this section in order to be guaranteed an
38 incentive payment under this section. The application for
39 precertification must include, at a minimum:

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

6 (ii) Any other information the Washington State University
7 extension energy program deems necessary in determining eligibility
8 for precertification.

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

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

19 (a) A signed statement that the applicant has not previously
20 received a notice of eligibility from the department under RCW
21 82.16.120 or the Washington State University extension energy program
22 under RCW 82.16.165 entitling the applicant to receive annual
23 incentive payments for electricity generated by the community solar
24 project at the same meter location;

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

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

30 (d) A signed statement describing the amount of the upfront
31 incentive and the timing, method, and distribution of estimated
32 benefits to qualifying subscribers. The statement must describe any
33 estimated energy burden reduction associated with the direct
34 benefits;

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

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

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

7 (ii) The Washington State University extension energy program may
8 waive the requirement in (g)(i) of this subsection (9), accepting an
9 application and granting provisional certification prior to proof of
10 final electrical inspection. Provisional certification expires 180
11 days after issuance, unless the applicant submits proof of the final
12 electrical inspection from the applicable local jurisdiction or the
13 Washington State University extension energy program extends
14 certification, for a term or terms of 30 days, due to extenuating
15 circumstances;

16 (h) Confirmation of the number of qualifying subscribers; and

17 (i) Any other information the Washington State University
18 extension energy program deems necessary in determining eligibility
19 and incentive levels or administering the program.

20 (10) No incentive payments may be authorized or accrued until the
21 final electrical inspection and executed interconnection agreement
22 are submitted to the Washington State University extension energy
23 program.

24 (11)(a) The Washington State University extension energy program
25 must review each project for which an application for certification
26 is submitted in accordance with subsection (8) of this section for
27 reasonable cost and financial structure, with a targeted installed
28 cost of \$2 per watt direct current for systems over 200 kilowatts and
29 \$2.25 per watt direct current for systems under 200 kilowatts.

30 (b) The Washington State University extension energy program may
31 approve an application for a project that costs more or less than the
32 targeted installed cost under (a) of this subsection based on a
33 review of the project, documents submitted by the project applicant,
34 and available data. Project cost evaluations must exclude costs
35 associated with energy storage systems and electrical system
36 improvements to permit grid-independent operation. Applicants may
37 petition the Washington State University extension energy program to
38 approve a higher cost per watt for unusual circumstances, except that
39 such costs may not include costs associated with energy storage
40 systems.

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

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

13 (b) Within 60 days of receipt of a notification under (a) of this
14 subsection, the utility serving the site of the community solar
15 project must remit the applicable one-time low-income community solar
16 incentive payment to the project administrator, who accepts the
17 payment on behalf of, and for the purpose of providing direct
18 benefits to, the project's qualifying subscribers.

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

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

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

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

29 (b) In the event that a qualifying subscriber terminates their
30 participation in a community solar project during the first 120
31 months after project certification, the system certification follows
32 the project and participation must be transferred to a new qualifying
33 subscriber.

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

37 (a) The number of certifications issued for community solar
38 projects; and

39 (b) An estimate of the amount of credit that has not yet been
40 allocated for low-income community solar incentive payments and that

1 remains available for new community solar project certifications in
2 the state.

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

7 (16) The nonpower attributes of the community solar project must
8 be retired on behalf of the subscribers unless, in the case of a
9 utility-owned community solar project, a contract between the
10 subscriber that benefits the subscriber clearly states that the
11 attributes will be retained and retired by the utility.

12 (17) All lists, technical specifications, determinations, and
13 guidelines developed under this section must be made publicly
14 available online by the Washington State University extension energy
15 program.

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

20 (19) Applications, certifications, requests for incentive
21 payments under this section, and the information contained therein
22 are not deemed tax information under RCW 82.32.330 and are subject to
23 disclosure.

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

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

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

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

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

38 (2) ((A)) In order to receive certification for the incentive
39 payment provided under RCW 82.16.165(1) by June 30, 2021, a community

1 solar project must have a direct current nameplate capacity that is
2 no more than one thousand kilowatts and must have at least ten
3 participants or at least one participant for every ten kilowatts of
4 direct current nameplate capacity, whichever is greater. A community
5 solar project that has a direct current nameplate capacity greater
6 than five hundred kilowatts must be subject to a standard
7 interconnection agreement with the utility serving the situs of the
8 community solar project. Except for community solar projects
9 authorized under subsection ~~((9))~~ (10) of this section, each
10 participant must be a customer of the utility providing service at
11 the situs of the community solar project.

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

15 (a) The administrator of the community solar project must be a
16 utility, nonprofit, or tribal housing authority that administers a
17 community solar project on tribal lands or lands held in trust for a
18 federally recognized tribe by the United States for subscribers who
19 are tribal members, or other local housing authority. The
20 administrator of the community solar project must apply for
21 precertification under section 5 of this act on or after July 1,
22 2022;

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

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

29 (d) Verification that an individual household subscriber meets
30 the definition of low-income must be provided to the administrator by
31 an entity with authority to maintain the confidentiality of the
32 income status of the low-income subscriber. If the providing entity
33 incurs costs to verify a subscriber's income status, the
34 administrator must provide reimbursement of those costs;

35 (e) Except for community solar projects authorized under
36 subsection (10) of this section, each subscriber must be a customer
37 of the utility providing service at the site of the community solar
38 project;

39 (f) In the event that a low-income subscriber in a community
40 solar project certified under section 5 of this act moves within 120

1 months of system certification from the household premises of the
2 subscriber's current subscription to another, the subscriber may
3 continue the subscription, provided that the new household premises
4 is served by the utility providing service at the site of the
5 community solar project. In the event that a subscriber is no longer
6 served by that utility or the subscriber terminates participation in
7 a community solar project certified under section 5 of this act, the
8 certification follows the system and participation must be
9 transferred by the administrator to a new qualifying subscriber as
10 specified in section 5 of this act;

11 (g) The administrator must include in the application for
12 precertification a project prospectus that demonstrates how the
13 administrator intends to provide direct benefits to qualifying
14 subscribers for the duration of their subscription to the community
15 solar project; and

16 (h) The length of the subscription term for low-income
17 subscribers must be the same length as for other subscribers, if
18 applicable.

19 (4) The administrator of a community solar project must
20 administer the project in a transparent manner that allows for fair
21 and nondiscriminatory opportunity for participation by utility
22 customers.

23 ~~((4))~~ (5) The administrator of a community solar project may
24 establish a reasonable fee to cover costs incurred in organizing and
25 administering the community solar project. Project participants,
26 prior to making the commitment to participate in the project, must be
27 given clear and conspicuous notice of the portion of the incentive
28 payment that will be used for this purpose.

29 ~~((5))~~ (6) The administrator of a community solar project must
30 maintain and update annually through June 30, 2030, the following
31 information for each project it operates or administers:

32 (a) Ownership information;

33 (b) Contact information for technical management questions;

34 (c) Business address;

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

37 (e) Subscription information, including rates, fees, terms, and
38 conditions.

39 ~~((6))~~ (7) The administrator of a community solar project must
40 provide the information required in subsection ~~((5))~~ (6) of this

1 section to the Washington State University extension energy program
2 at the time it submits the applications allowed under RCW
3 82.16.165(1) and section 5 of this act.

4 ~~((7))~~ (8) The administrator of a community solar project must
5 provide each project participant with a disclosure form containing
6 all material terms and conditions of participation in the project,
7 including but not limited to the following:

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

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

15 (c) All recurring and nonrecurring charges;

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

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

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

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

22 (h) Any other terms and conditions of the services provided by
23 the administrator.

24 ~~((8))~~ (9) A utility may not adopt rates, terms, conditions, or
25 standards that unduly or unreasonably discriminate between utility-
26 administered community solar projects and those administered by
27 another entity.

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

1 ~~((10))~~ (11) The Washington utilities and transportation
2 commission must publish, without disclosing proprietary information,
3 a list of the following:

4 (a) Entities other than utilities, including affiliates or
5 subsidiaries of utilities, that organize and administer community
6 solar projects; and

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

9 ~~((11))~~ (12) If a consumer-owned utility opts to provide a
10 community solar program or contracts with a nonutility administrator
11 to offer a community solar program, the governing body of the
12 consumer-owned utility must publish, without disclosing proprietary
13 information, a list of the nonutility administrators contracted by
14 the utility as part of its community solar program.

15 ~~((12))~~ (13) Except for parties engaged in actions and
16 transactions regulated under laws administered by other authorities
17 and exempted under RCW 19.86.170, a violation of this section
18 constitutes an unfair or deceptive act in trade or commerce in
19 violation of chapter 19.86 RCW, the consumer protection act. Acts in
20 violation of chapter 36, Laws of 2017 3rd sp. sess. are not
21 reasonable in relation to the development and preservation of
22 business, and constitute matters vitally affecting the public
23 interest for the purpose of applying the consumer protection act,
24 chapter 19.86 RCW.

25 ~~((13))~~ (14) Nothing in this section may be construed as
26 intending to preclude persons from investing in or possessing an
27 ownership interest in a community solar project, or from applying for
28 and receiving federal investment tax credits.

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

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

31 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately.

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