

## **PROPOSED SUBSTITUTE BILL MEMORANDUM**

To: Members of the Finance Committee

From: Kyle Raymond, Fiscal Analyst

Re: **Proposed Substitute HB 1921 (H-2553.1)**  
Sponsored by Representative Ramel

Date: February 3, 2022

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### **A brief summary of HB 1921:**

- Authorizes a county to enter into an agreement with property owner of property with renewable energy facilities for payment in lieu of taxes (PILT).
- Requires the assessed value for renewable energy facilities to be determined using a cost-based approach.
- Requires the Department of Revenue to adopt rules developing an appraisal model and industry-specific trending tables for renewable energy property type.
- Establishes various program requirements and administrative provisions.

### **The proposed substitute (H-2553.1) makes the following changes to HB 1921:**

- Specifies that "renewable energy property" under the bill does not include real property and also does not include equipment or materials attached to a single-family residential building.
- Removes the requirement for renewable energy facilities to be assessed on a cost-based approach.
- Requires the Department of Revenue (DOR) to publish guidance, rather than adopt rules, developing industry-specific tables and cost-based appraisal models within 90 days to advise county assessors when appraising renewable energy facilities.
- Removes the maximum amount for the rate and surcharge specified in statute, and instead, requires the DOR to set the maximum and minimum allowable amounts for the rate and surcharge under the agreement.
- Requires a renewable energy property PILT agreement to begin at the commencement of construction.
- Permits an agreement to include a separate payment amount while construction occurs, which must begin in the first year that a property tax would otherwise be owed.
- Permits agreements to include reduced payments during the period of construction on a prorated schedule agreed to by parties of the agreement.

- Requires the county treasurer to distribute all amounts received to all property tax districts in appropriate tax code areas in the same proportion as it would distribute property taxes from taxable property.
- Modifies the filing date of required materials for renewable energy property owners to align with the specified timeline for assessors in existing statute.
- Removes the language requiring renewable energy property PILT to be extended on the tax roll.
- Removes the requirement for DOR to transfer data on nameplate capacity to county assessors.
- Directs, for the purpose of determining the system value of the operating property of any electric light and power company, the DOR to deduct the from the value of all renewable energy property owned by a company from the value of the total assets of the company.
- Exempts the bill from the new tax preference requirements of a tax preference performance statement and the automatic 10-year expiration requirement.
- References to fees are removed throughout the bill.
- Delays the effective date to applies to taxes levied for collection starting in 2024.

1 AN ACT Relating to the valuation of property related to renewable  
2 energy for the purposes of property tax and providing for a payment  
3 in lieu of taxes for renewable energy facilities; adding a new  
4 section to chapter 84.04 RCW; adding a new section to chapter 84.40  
5 RCW; adding a new section to chapter 84.36 RCW; adding a new section  
6 to chapter 84.12 RCW; and creating new sections.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 84.04  
9 RCW to read as follows:

10 (1) "Renewable energy property" means property, not including  
11 real property, placed in service after the effective date of this  
12 section that uses solar or wind energy as the sole fuel source for  
13 the generation of at least one megawatt of nameplate capacity,  
14 alternating current, and all other equipment and materials that  
15 comprise the property, including equipment used to store electricity  
16 from the property to be released at a later time. "Renewable energy  
17 property" does not include any equipment or materials attached to a  
18 single-family residential building.

19 (2) "Renewable energy property owner" means the owner or person  
20 in possession or control of a renewable energy property.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 84.40  
2 RCW to read as follows:

3        (1) It is the policy of this state to promote the development of  
4 renewable energy projects to support the state's renewable energy  
5 goals.

6        (2) The department must publish guidance, in cooperation with  
7 industry stakeholders, to develop industry-specific tables for each  
8 type of renewable energy property and a cost-based appraisal model  
9 within 90 days of the effective date of this section to advise county  
10 assessors when appraising renewable energy facilities.

11       NEW SECTION.    **Sec. 3.**    A new section is added to chapter 84.36  
12 RCW to read as follows:

13        (1)(a) The value of renewable energy property qualifying under  
14 this section is exempt from ad valorem taxation if, upon application  
15 by the owner of renewable energy property located within the county  
16 and outside the boundaries of any incorporated city that is filed  
17 before the date when the property is placed in service, the governing  
18 body of a county and the renewable energy property owner enter into  
19 an agreement providing for payment in lieu of ad valorem taxes as set  
20 forth in this section. An agreement may not be entered into for an  
21 initial period of longer than 10 consecutive tax years, starting from  
22 the commencement of construction. An agreement may be renewed at the  
23 end of the 10-year period upon the mutual consent of the parties to  
24 the agreement.

25        (b) If any portion of a renewable energy property is located  
26 within the boundaries of an incorporated city, the governing body of  
27 the county shall consult with the governing body of the city before  
28 entering into an agreement under (a) of this subsection. An agreement  
29 entered into under (a) of this subsection with respect to a renewable  
30 energy property located within the boundaries of the incorporated  
31 city is not effective unless the governing body of the incorporated  
32 city is a party to the agreement.

33        (2)(a) The agreement under subsection (1) of this section must  
34 require the renewable energy property owner to pay an annual payment  
35 to the county in an amount that must be computed at a rate that is  
36 based on the per megawatt nameplate capacity, alternating current of  
37 the renewable energy property, plus an additional per megawatt-hour  
38 surcharge for any energy storage device that is part of the renewable  
39 energy property. The rate and surcharge agreed to must be within the

1 maximum and minimum amounts established under subsection (3) of this  
2 section.

3 (b) For the period during which construction on the renewable  
4 energy property occurs, an agreement under subsection (1) of this  
5 section may include a different payment amount from the payment  
6 amount established under (a) of this subsection. The payments must  
7 begin in the first year that a property tax would otherwise be owed.  
8 Reduced payments may be allowed during the period of construction on  
9 a prorated schedule agreed to by the parties of the agreement.

10 (3) The department shall establish the minimum and maximum  
11 allowable amounts of the rate and surcharge under subsection (2) of  
12 this section. In developing the allowable amounts as described in  
13 this subsection, the department must:

14 (a) Survey similar project types for which a cost-based appraisal  
15 method was used;

16 (b) Base the rate on the per megawatt of nameplate capacity,  
17 alternating current of the renewable energy property; and

18 (c) Establish a reasonable cost range for each project type that  
19 is based on a cost-based appraisal method.

20 (4) The county treasurer shall distribute all amounts received  
21 under subsection (2) of this section to all property tax districts in  
22 appropriate tax code areas in the same proportion as it would  
23 distribute property taxes from taxable property.

24 (5)(a) A renewable energy property that has entered into an  
25 agreement pursuant to subsection (1) of this section must:

26 (i) On or before the date required for filing the list of  
27 personal property pursuant to RCW 84.40.040 of the first assessment  
28 year applicable to the renewable energy property, file the required  
29 listing and also file with the department and with the assessor of  
30 the county in which the renewable energy property is located a copy  
31 of the agreement and the nameplate capacity of the renewable energy  
32 property. Assessment of exempt property pursuant to RCW 84.40.175 may  
33 not be suspended on account of any agreement or exemption described  
34 in this section.

35 (ii) For each subsequent assessment year preceding a tax year to  
36 which the agreement relates, include with the statement required  
37 pursuant to RCW 84.12.230, if applicable, or RCW 84.40.040, the  
38 nameplate capacity of the renewable energy property.

1 (b) A filing made under (a)(i) or (ii) of this subsection after  
2 on or before the date specified in RCW 84.40.040 is subject to  
3 penalties pursuant to RCW 84.40.130.

4 (6) The payment in lieu of taxes imposed pursuant to this section  
5 is due in full on April 30th of each tax year subject to an  
6 agreement. Except as provided in subsection (7) of this section,  
7 property for which payment in lieu of taxes are not paid as required  
8 under this section are not exempt for the tax year immediately  
9 following nonpayment.

10 (7) Property is exempt for the following tax year upon payment,  
11 by October 31st of the current tax year, of the delinquent payment in  
12 lieu of taxes plus any penalties and interest imposed pursuant to RCW  
13 84.56.020. Delinquent payments, interest, and penalties must be  
14 collected in the manner provided for the collection of delinquent  
15 taxes on personal property.

16 (8) The exemption granted under this section for renewable energy  
17 property is assignable upon the sale or transfer of the renewable  
18 energy property.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 84.12  
20 RCW to read as follows:

21 (1) For the purpose of determining the system value of the  
22 operating property of any electric light and power company, following  
23 the deduction made pursuant to RCW 84.12.310, the department shall in  
24 addition deduct from the true and fair value of the total assets of  
25 such company, the value of all renewable energy property owned by  
26 such company and located within this state that constitutes a part of  
27 the company's operating property. The valuation methods for  
28 determination of the system value under RCW 84.12.300 applies to the  
29 remaining operating property of such company.

30 (2) In apportioning the value of the operating property of light  
31 and power companies to this state pursuant to RCW 84.12.300, the  
32 department shall first attribute to this state the value of renewable  
33 energy property subject to the deduction in subsection (1) of this  
34 section and shall second apportion the system value of remaining  
35 operating property as provided in RCW 84.12.300.

36 (3) In apportioning the value of the operating property of light  
37 and power companies among the counties pursuant to RCW 84.12.360(2),  
38 the department shall first attribute to each county the value of all  
39 renewable energy property owned by such company and located in such

1 county and shall second allocate the remaining value of such  
2 company's operating property as provided in RCW 84.12.360.

3 NEW SECTION. **Sec. 5.** RCW 82.32.805 and 82.32.808 do not apply  
4 to this act.

5 NEW SECTION. **Sec. 6.** This act applies to taxes levied for  
6 collection in 2024 and thereafter.

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