
HOUSE BILL 1191

State of Washington

61st Legislature

2009 Regular Session

By Representatives Chase, Morris, Simpson, Wallace, Williams, VanDeWege, Takko, Nelson, Sullivan, Orwall, Hasegawa, Linville, Kenney, Roberts, Rolfes, Dickerson, Kristiansen, Dunshee, O'Brien, Sells, Ormsby, Miloscia, Conway, Kagi, Lias, Driscoll, White, Darneille, Kessler, Kirby, Moeller, Ericks, Quall, Eddy, Finn, Hinkle, Jacks, Crouse, Flannigan, Morrell, Condotta, Appleton, Green, Campbell, Seaquist, Wood, McCoy, Pettigrew, Hurst, Cody, McCune, Pedersen, and Goodman

Read first time 01/14/09. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to providing incentives to support renewable
2 energy; adding a new chapter to Title 82 RCW; creating a new section;
3 providing an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that Washington
6 industries are world-class leaders in the emerging solar electric
7 industry and the Northwest has an anticipated regional shortfall of
8 four to five hundred megawatts in the electric supply as predicted by
9 the Northwest power planning council.

10 The legislature finds that this shortfall is projected to occur,
11 even with the expected development of all available wind energy,
12 conservation, and energy efficiency measures that are available to the
13 region. The legislature recognizes the immediate need and regional
14 benefits of developing indigenous diverse carbon-free resources. The
15 legislature finds that locally sited carbon-free electricity generation
16 offers the best, least costly method of keeping energy generation
17 dollars in our local economies, while reducing the ultimate impacts of
18 electricity usage.

1 Solar technologies made in Washington are among the most carbon-
2 free technologies in the world. State energy policies should recognize
3 that development of carbon-neutral technologies benefit all residents
4 of Washington state.

5 The legislature finds that residential development of solar
6 electric technologies is proceeding as anticipated by earlier
7 legislation implemented by the department of revenue and the climate
8 and rural energy development center at Washington State University,
9 established under RCW 28B.30.642.

10 The legislature intends to help meet the anticipated energy
11 shortfalls in an environmentally responsible manner. The legislature
12 intends to encourage all businesses, other commercial enterprises, and
13 local governments to invest in locally sited carbon-free generation.

14 The legislature intends to provide commercial incentives for the
15 greater use of locally created and installed solar electric
16 technologies, to support, retain, and grow existing local industries,
17 and further, to create new opportunities for carbon-free electric
18 generation technologies.

19 NEW SECTION. **Sec. 2.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Carbon-free commercial scale energy generation account" means
22 the account established in section 5 of this act and administered by
23 the department to reimburse commercial scale solar projects for
24 measured carbon-free economic development kilowatt-hours. The
25 measurements must be made by a utility revenue meter.

26 (2)(a) "Commercial customer-generated solar electricity" means the
27 alternating current electricity that is generated by a system that
28 converts sunlight into electricity and is located on the real property
29 of a commercial enterprise, registered not-for-profit, or local
30 government that is also provided electricity generated by a light and
31 power business. A system located on a leasehold qualifies under this
32 definition. Federal facilities do not qualify under this definition
33 unless the property is leased to a nonfederal organization.

34 (b) "Commercial customer-generated solar electricity" does not
35 include electricity generated by a light and power business with
36 greater than one thousand megawatt hours of annual sales or a gas
37 distribution business.

1 (3) "Solar electric energy system" means a system that produces
2 commercial customer-generated solar electricity.

3 (4) "Standards for interconnection to the electric distribution
4 system" means technical, engineering, operational, safety, and
5 procedural requirements for interconnection to the electric
6 distribution system of a light and power business.

7 NEW SECTION. **Sec. 3.** (1) Any business, not-for-profit, or local
8 governmental entity, not in the light and power business or in the gas
9 distribution business, may apply to the light and power business
10 serving the situs of the system, each fiscal year beginning July 1,
11 2009, for an investment cost recovery incentive for each kilowatt-hour
12 from a solar electric energy system installed on its property if they
13 have not applied for any other Washington renewable energy production-
14 based incentive during that program year. No incentive may be paid for
15 kilowatt-hours generated before July 1, 2009, or after July 1, 2020.

16 (2)(a) Before submitting the application for the incentive
17 authorized under this section for the first time, the applicant must
18 submit to the department and to the climate and rural energy
19 development center at Washington State University, a certification in
20 a form and manner prescribed by the department that includes, but is
21 not limited to, the following information:

22 (i) The name and address of the applicant and location of the solar
23 electric energy system;

24 (ii) The tax registration number of the applicant;

25 (iii) That the electricity produced by the applicant meets the
26 definition of commercial customer-generated solar electricity;

27 (iv) The nameplate rating of the solar electric energy system; and

28 (v) That the electricity may be transformed or transmitted for
29 entry into or operation in parallel with electricity transmission and
30 distribution systems.

31 (b) Within thirty days of receipt of the certification, the
32 department must advise the applicant in writing whether the commercial
33 customer-generated solar electricity system qualifies for an incentive
34 under this section. The department may consult with the climate and
35 rural energy development center at Washington State University to
36 determine eligibility for the incentive. A system certification and

1 the information contained in the certification are subject to
2 disclosure under RCW 82.32.330(3)(m).

3 (3)(a) By August 1st of each year, an applicant for the incentive
4 authorized under this section must submit a certification to the light
5 and power business serving the situs of the system in a form and manner
6 prescribed by the department that includes, but is not limited to, the
7 following information:

8 (i) The name and address of the applicant and location of the solar
9 electric energy system;

10 (ii) The tax registration number of the applicant;

11 (iii) The date of the letter from the department stating that the
12 solar electric energy system is eligible for the incentive under this
13 section;

14 (iv) The nameplate rating of the solar electric energy system; and

15 (v) A statement of the amount of kilowatt-hours generated by the
16 solar electric energy system in the prior fiscal year.

17 (b) Within sixty days of receipt of the incentive certification,
18 the light and power business serving the situs of the system must
19 notify the applicant in writing whether the incentive payment will be
20 authorized or denied. The light and power business may consult with
21 the climate and rural energy development center at Washington State
22 University to determine eligibility for the incentive payment. An
23 incentive certification and the information contained in the
24 certification are subject to disclosure under RCW 82.32.330(3)(m).

25 (c)(i) A person receiving an incentive payment must keep and
26 preserve, for a period of five years, suitable records as may be
27 necessary to determine the amount of incentive applied for and
28 received. These records must be open for examination at any time upon
29 notice by the light and power business that made the payment or by the
30 department. If upon examination of any records or from other
31 information obtained by the light and power business or department it
32 appears that an incentive has been paid in an amount that exceeds the
33 correct amount of incentive payable, the light and power business may
34 assess against the person for the amount found to have been paid in
35 excess of the correct amount of incentive payable and may add thereto
36 interest on the amount. Interest must be assessed in the manner that
37 the department assesses interest upon delinquent tax under RCW
38 82.32.050.

1 (ii) If it appears that the amount of incentive paid is less than
2 the correct amount of incentive payable, the light and power business
3 may authorize additional payment.

4 (4) The investment cost recovery incentive must be at a rate of
5 thirty-eight cents per economic development kilowatt-hour unless
6 requests exceed the amount available in the carbon-free commercial
7 scale energy generation account. If total annual requests for payments
8 from the investment cost recovery incentive under this section exceed
9 the amount of funds available, the incentive payments must be reduced
10 proportionately.

11 (5) No commercial system, business, not-for-profit, or local
12 governmental entity is eligible for incentives for more than twenty
13 thousand dollars per utility revenue meter at the system location per
14 year. This does not preclude multiple metered systems at one location.

15 (6) The environmental attributes of the solar electric energy
16 system belong to the applicant, and do not transfer to the state or the
17 light and power business upon receipt of the investment cost recovery
18 incentive.

19 NEW SECTION. **Sec. 4.** (1) The department must reimburse a light
20 and power business from the carbon-free commercial scale energy
21 generation account in an amount equal to investment cost recovery
22 incentive payments made to its commercial customer-generated solar
23 electricity generating customers in any fiscal year under section 3 of
24 this act. The payment must be in a form and manner as required by the
25 department. Payments not claimed in one fiscal year may not be claimed
26 in a subsequent year.

27 (2) For any business that has claimed credit for amounts that
28 exceed the correct amount of the incentive payable under section 3 of
29 this act, the reimbursement claimed for the excess payments are
30 immediately due and payable. The department must assess interest but
31 not penalties on the payments claimed. Interest must be assessed at
32 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
33 retroactively to the date the payment was claimed, and accrue until the
34 over paid amount is reclaimed.

35 (3) Obligation of payments under this section expire July 1, 2020,
36 and payments may not be claimed after June 30, 2021.

1 NEW SECTION. **Sec. 5.** The carbon-free commercial scale energy
2 generation account is created in the custody of the state treasurer.
3 All receipts from appropriations made to the account must be deposited
4 into the account. Expenditures from the account may be used only for
5 payments for commercial customer-generated solar electricity as defined
6 in this chapter and for administrative costs incurred by the department
7 and the Washington State University climate and rural development
8 center. Only the director or the director's designee may authorize
9 expenditures from the account. The account is subject to allotment
10 procedures under chapter 43.88 RCW, but an appropriation is not
11 required for expenditures.

12 NEW SECTION. **Sec. 6.** (1) Using existing sources of information,
13 the department of revenue must report to the house of representatives
14 appropriations committee, the house of representatives committee
15 responsible for energy issues, the senate committee on ways and means,
16 and the senate committee responsible for energy issues by December 1,
17 2012. The report must measure the impacts of this act, including the
18 total number of solar energy system manufacturing companies in the
19 state, any change in the number of solar energy system manufacturing
20 companies in the state, and the effect on the number of jobs created
21 for Washington residents, and such other factors as the department of
22 revenue selects.

23 (2) The department of revenue may not conduct any new surveys to
24 provide the report required in subsection (1) of this section.

25 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute
26 a new chapter in Title 82 RCW.

27 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 July 1, 2009.

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