
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Act 97, Session Laws
2 of Hawaii 2015, requires electric utilities in the State to
3 achieve a one hundred per cent renewable portfolio standard by
4 December 31, 2045, with the intent to transition the State away
5 from imported fossil fuels and toward renewable local resources
6 that provide a secure source of affordable energy. The
7 successful deployment of large-scale renewable energy projects
8 is integral to the achievement of this goal.

9 The legislature further finds that, in late 2021, the city
10 and county of Honolulu real property assessment division
11 unilaterally changed their tax treatment of some parcels of land
12 on which renewable energy projects are sited from agriculture to
13 industrial for tax purposes. This change resulted in a drastic
14 increase in property taxes for affected projects, resulting in
15 some renewable energy project operators receiving bills that
16 were hundreds of times higher than their prior bills. An
17 increase of this scale is not one that could have been



1 reasonably anticipated and factored into contract negotiations
2 or other business considerations when the affected projects were
3 under development.

4 The legislature additionally finds that increases in real
5 property taxes for renewable energy projects would significantly
6 impact the viability of existing and future renewable energy
7 projects and consequently the State's progress toward meeting
8 its one hundred per cent renewable energy goal. Power purchase
9 agreements that have already been executed would require
10 renegotiations with the utility and renewed approvals by the
11 public utilities commission, neither of which are guaranteed.
12 Increased costs of renewable energy projects would likely be
13 borne by ratepayers, with low- and middle-income residents
14 bearing a substantial energy cost burden.

15 In response to the tax increase, the Honolulu city council
16 adopted Ordinance 21-32 in 2021 to create a partial exemption
17 for renewable energy projects. While this newly enacted
18 ordinance provides some relief, there is still a large increase
19 in the tax burden for these projects. In addition, this action
20 could have a chilling effect on the future development and
21 financing of renewable energy in all counties in the State due



1 to the increased uncertainty and perception of risk resulting
2 from these events.

3 The legislature finds that, under section 8-10.27 of the
4 Revised Ordinances of Honolulu, the city and county of Honolulu
5 provides an exemption from real property taxes for real property
6 that is owned or leased and actually used by a public service
7 company. This means that energy projects owned by the electric
8 utility - both renewable energy and fossil fuel powered
9 facilities - are exempt from real property taxes, while
10 independent power producers are not.

11 The purpose of this Act is to provide more certainty for
12 renewable energy developers and ratepayers and ensure that these
13 projects are allowed the same tax exemptions that are already
14 provided to utility-owned energy projects under county law,
15 while also mitigating any potential revenue loss for the county,
16 by authorizing a county to impose an annual in-lieu fee on land
17 or improvements on land that are actively used to produce or
18 store renewable energy that is sold to an electric utility,
19 under certain conditions.



1 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- Renewable energy projects; in-lieu fees. A
5 county may impose an annual in-lieu fee on land or improvements
6 on land that are actively used to produce or store renewable
7 energy that is sold to an electric utility; provided that:

8 (1) The county, by ordinance, exempts renewable energy
9 projects from one hundred per cent of real property
10 taxes;

11 (2) The fee shall be determined by the county on a per
12 megawatt nameplate AC capacity basis;

13 (3) Any renewable energy project that sells electricity to
14 a not-for-profit utility shall be exempt from the fee;
15 and

16 (4) The county shall not impose the fee or increase
17 existing fees for a renewable energy project to which
18 the county has previously granted an application for a
19 real property tax exemption on the land underlying and
20 improvements relating to the renewable energy
21 project."



1 SECTION 3. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 4. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2100.

9



H.B. NO. 1637
H.D. 1

Report Title:

Counties; Real Property Tax; Renewable Energy Project; In-lieu Fee

Description:

Authorizes a county to impose an annual in-lieu fee on land or improvements on land that are actively used to produce or store renewable energy that is sold to an electric utility, under certain conditions. Effective 7/1/2100. (HD1)

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2022-0941 HB1637 HD1 HMSO

