
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 electric utility and renewed approvals
11 by the public utilities commission, neither of which are
12 guaranteed. Increased costs of renewable energy projects would
13 likely be borne by ratepayers, with low- and middle-income
14 residents 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, the change
20 in tax treatment could have a chilling effect on the future
21 development and financing of renewable energy in all counties in



1 the State due to the increased uncertainty and perception of
2 risk resulting from possible unanticipated tax increases.

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 an 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, while mitigating any
13 potential revenue loss to the counties, by allowing the counties
14 to establish an opt-in program by ordinance that allows an
15 annual payment in lieu of real property taxes on the land or
16 improvements thereon that are actively used to produce or store
17 renewable energy that is sold to an electric utility.

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



1 "§46- Renewable energy projects; in-lieu payment. A
 2 county may enact an ordinance, which it may amend from time to
 3 time, to establish an opt-in by the property or taxpayer program
 4 that allows an annual payment in lieu of real property taxes on
 5 land or improvements thereon that are actively used to produce
 6 or store renewable energy that is sold under a contract to an
 7 electric utility; provided that:

- 8 (1) The ordinance also exempts renewable energy projects
 9 from one hundred per cent of real property taxes;
- 10 (2) The payment may be determined by the county on a per
 11 megawatt nameplate AC capacity basis; and
- 12 (3) Any renewable energy project that sells electricity to
 13 a not-for-profit utility shall be exempt from the
 14 payment."

15 SECTION 3. If any provision of this Act, or the
 16 application thereof to any person or circumstance, is held
 17 invalid, the invalidity does not affect other provisions or
 18 applications of the Act that can be given effect without the
 19 invalid provision or application, and to this end the provisions
 20 of this Act are severable.

21 SECTION 4. New statutory material is underscored.



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



Report Title:

Counties; Real Property Tax; Renewable Energy Project; Annual Payment

Description:

Authorizes the counties to establish an opt-in program by ordinance that allows an annual payment in lieu of real property taxes on the land or improvements thereon that are actively used to produce or store renewable energy that is sold to an electric utility. Effective 7/1/2100. (SD1)

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