

JAN 21 2022

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 the increase in
5 real property taxes for renewable energy projects would
6 significantly impact the viability of existing and future
7 renewable energy projects and consequently the State's progress
8 toward meeting its one hundred per cent renewable energy goal.
9 Power purchase agreements that have already been executed would
10 require renegotiations with the utility and renewed approvals by
11 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 to create a partial exemption for
17 renewable energy projects. While this newly enacted ordinance
18 provides some relief, there is still a large increase in the tax
19 burden for these projects. In addition, this action could have
20 a chilling effect on the future development and financing of
21 renewable energy in all counties in the State due to the



1 increased uncertainty and perception of risk resulting from
2 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 rate payers and ensure that
13 these projects are allowed the same tax exemptions that are
14 already provided to utility-owned energy projects under county
15 law, while also mitigating any potential revenue loss for the
16 county, by:

- 17 (1) Prohibiting the counties from imposing real property
18 taxes on land or land improvements used to produce or
19 store renewable energy that is sold to an electric
20 utility; and



1 (2) Authorizing a county to impose an annual fee of up to
2 \$1,000 per megawatt of nameplate AC capacity generated
3 by a renewable energy project sited on real property
4 within that county that is actively producing and
5 selling energy to an electric utility.

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

9 **"§46- Renewable energy projects; property tax**
10 **prohibition; optional annual fee.** (a) No county shall impose a
11 real property tax on land or improvements on that land that are
12 used for the production or storage of renewable energy, as
13 defined in section 269-91, that is sold to an electric utility;
14 provided that this section shall not apply to any portion of the
15 property that is not used for the primary purpose of the
16 production or storage of renewable energy.

17 (b) A county may impose an annual fee of up to \$1,000 per
18 megawatt of nameplate AC capacity generated by a renewable
19 energy project that is actively producing energy and selling it
20 to an electric utility, and is sited on real property within
21 that county; provided that any renewable energy project that



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1 sells electricity to a not-for-profit utility shall be exempt
2 from these fees."

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

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 2022.

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INTRODUCED BY:

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S.B. NO. 2722

Report Title:

Counties; Real Property Tax; Renewable Energy; Prohibition;
Optional Annual Fee

Description:

Prohibits the counties from imposing a real property tax on land or land improvements used for the production or storage of renewable energy that is sold to an electric utility. Permits a county to impose an annual fee of up to \$1,000 per megawatt of nameplate AC capacity generated by a renewable energy project that is actively producing and selling energy to an electric utility and sited on real property within that county.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

