

JAN 19 2024

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. Additionally,
9 fixed pricing for renewable energy over the life of utility
10 contracts has potential to reduce the negative impacts of price
11 volatility.

12 The legislature further finds that implementation of Act
13 97, Session Laws of Hawaii 2015, can be better served by
14 allowing counties the flexibility to accept payments in lieu of
15 real property tax for renewable generation improvements upon
16 real property and that the counties need authority from the
17 State to establish a payment in-lieu-of-property-tax program



1 with payments based on a per megawatt nameplate capacity basis.
2 In cases such as *In re Tax Appeal of Kaheawa Wind Power, LLC v.*
3 *County of Maui*, the Hawaii Supreme Court has affirmed important
4 distinctions relating to taxation, clearly requiring the
5 counties to obtain authority delegated from the State to allow
6 payments in lieu of real property tax for renewable generation
7 projects.

8 Furthermore, under section 239-5, Hawaii Revised Statutes,
9 and section 8-10.24, Revised Ordinances of Honolulu, public
10 service companies, including electric utilities, are assessed
11 public service taxes by the city and county of Honolulu in lieu
12 of real property taxes.

13 The legislature additionally finds that a payment in-lieu-
14 of-tax program may provide the stability necessary for renewable
15 energy projects to bid into long-term contracts, often twenty
16 years or more, with fixed pricing.

17 The purpose of this Act is to provide more certainty for
18 renewable energy developers and ratepayers, while allowing
19 predictable revenue for the counties.



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; payment in lieu of
5 real property taxes. A county may enact an ordinance, which it
6 may amend from time to time, to establish an opt-in by the
7 property owner or taxpayer program that allows an annual payment
8 in lieu of real property taxes on land or improvements thereon
9 that are actively used to produce or store renewable energy
10 primarily for the purpose of public consumption that is sold
11 under a power purchase contract to an electric utility; provided
12 that:

- 13 (1) The ordinance also exempts renewable energy projects
14 from one hundred per cent of real property taxes; and
15 (2) The payment may be determined by the county on a per
16 megawatt nameplate alternating current (AC) capacity
17 basis."

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



S.B. NO. 2770

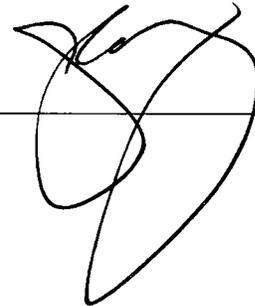
1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect on July 1, 2024.

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INTRODUCED BY: _____

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S.B. NO. 2770

Report Title:

Renewable Energy Projects; Real Property Taxes; County Ordinance

Description:

Allows the counties to establish, by ordinance, an opt-in program 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.

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

